

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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§ 90.01 DEFINITIONS.

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

ANIMALS - DOMESTIC. Animals commonly kept for house pets such as dogs, cats, and similar animals.

ANIMALS - EXOTIC. Any animal or species prohibited by state or federal law, any animal or species including, but not limited to:

- (1) Any skunk;
- (2) Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars, and ocelots, except domestic house cats;
- (3) Any member of the Canidae, such as wolves, foxes, coyotes, dingoes, and jackals, except commonly accepted domestic dogs;
- (4) Any crossbreed, such as the crossbreeds between dogs and coyotes and coyotes or dogs and wolves, not including crossbred domesticated animals;

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(5) Any poisonous pit viper, such as a rattlesnake, coral snake, water moccasin, or cobra;

(6) Any raccoon; or

(7) Any other animal not listed above but which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property.

ANIMALS - NON-DOMESTIC. Livestock and poultry commonly kept for productive purposes on a farm, such as cattle, swine, horses, sheep, goats, chickens, and other similar animals.

ANIMAL CONTROL OFFICER. Any person/firm designated by the city to assist in the enforcement of this chapter.

ANIMAL KENNEL. Any place where four or more of any single type of domestic animal over six months of age are owned, boarded, bred, or offered for sale.

ANIMAL SHELTER. Any premises designated by the City Council for the purpose of impounding and caring for animals held under the authority of this chapter.

AT LARGE. A domestic animal that is off the premises of the owner. A domestic animal shall not be determined to be **AT LARGE** if:

(1) Used in wild game or animal hunting and is under the control of its owner or a responsible person;

(2) When engaged in obedience training and under the control of its owner or a responsible persons; or

(3) Running loose on the owner's property, or property under the owner's control and under the control of a responsible party. If the animal is running loose on the owner's property and runs onto adjacent public or private properties and does not respond to a person, then the animal is considered **AT LARGE**.

DANGEROUS DOG. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise endanger the safety of human beings or animals, or any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

DOG. Any animal of the canine species.

OWNER. Any person, persons, firm, or corporation owning, harboring, or keeping animals.
(2005 Code, § 14.01)

§ 90.02 DOMESTIC ANIMALS.

(A) *License required.* Except as hereinafter provided, all animals over six months of age are required to have a valid license. New residents to the city must license their animals within 30 days after moving to the city. Licenses shall be issued upon payment of the license fee which is set by the City Council from time to time, and upon receipt of a certificate from a licensed veterinarian showing that the animal to be licensed has been given a vaccination against rabies or certification by a licensed veterinarian that the dog is exempt from vaccination for health reasons. Licenses shall be for the whole or unexpired portion of the year for which same is issued and shall expire December 31 of the same year. Exception: no license is required for service dogs which are being used for said purpose.

(B) *Tag and collar.*

(1) Upon receipt of required certificate and payment of the license fee, the city shall provide the owner of the now licensed animal a tag upon which there shall be stamped or engraved the registered number of the animal the words "Pipestone Minnesota" and the year for which the license is issued.

(2) Every owner shall be required to provide each animal with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn.

(C) *Impounding.*

(1) A police officer or any agent designated by the City Council shall impound any animal found in violation of this chapter in an animal shelter. The animal shall be housed and fed in a humane manner.

(2) Impounded animals shall be kept for not less than five regular business days unless reclaimed prior to that time by their owner as provided hereafter. All fees incurred are the responsibility of the owner upon reclamation of said animal.

(3) The city shall charge a daily boarding fee to the owner of any animal impounded and held. The fee shall be set from time to time by the City Council.

(4) The city may file citations and other legal complaints against the violators of this chapter.

(5) If the owner of said animal be known, written notice of impounding shall be given the owner thereof, either by mail or personal service. The owner shall remain subject to all penalties contained in this chapter.

(D) *Unclaimed animals.* Any animal which is not claimed as provided in division (C)(2) above within the specified number of days, as per M.S. § 346.13 and as amended, may be evaluated and sold for adoption at the discretion of the city. Any animal which is not claimed by the owner or sold for adoption shall be painlessly and humanely destroyed as provided for in the state statute and properly disposed of by the agent or firm retained by the city for such purpose.

(E) *Permissible return of unrestrained animals.* If an animal is found unrestrained and its owner can be identified and located, such animal need not be impounded but may instead be taken to the owner. In such cases however, proceedings may be taken against the owner for violation of this chapter.

(F) *Dangerous dogs.*

(1) No person owning or harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go unconfined on or off the premises of such person. A dangerous dog is **UNCONFINED** as the term is used in this section if such a dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises of said person. Such pen or dog run area must also have either sides six feet high or a secure top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one foot.

(2) No person owning, harboring, or having the care of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.

(3) No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the city any dangerous dog.

(4) In the event that a police officer has probable cause to believe that a dangerous dog is being harbored or cared for in violation of this chapter, the police officer may seize and impound the dangerous dog pending trial.

(G) *Rabies vaccination.* Every owner or keeper of a domestic animal shall cause the same to be vaccinated prior to the time such animal shall reach the age of six months. Additionally, such animal shall be vaccinated at least every three years unless exempted from vaccination per division (A) above.

(H) *Failure to restrain an attack by a dog.* It shall be unlawful for an owner to fail to restrain a dog from inflicting or attempting to inflict bodily injury to any person or other animal. Violation of this section shall be a misdemeanor. The court, upon a finding of the defendant's guilt hereunder, is authorized to order as part of the disposition of the case that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; or

(2) The owner of the animal demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals. If the court does not order the destruction of the dog, the court, as an alternative, may order the defendant to provide, and show proof to the court of public liability insurance in the minimum amount of \$500,000.

(2005 Code, § 14.02) Penalty, see § 90.99

§ 90.03 EXOTIC AND NON-DOMESTIC ANIMALS.

(A) Exotic animals, as per § 90.01, are expressly not permitted within the corporate limits of the city.

(B) Non-domestic animals, as per § 90.01, are not permitted within any district other than the Agricultural District, and on those lands that have non-domestic animals at the time of the adoption of this chapter.

(C) On those lands that have non-domestic animals at the adoption of this chapter that are not in the Agricultural District, non-domestic animals can be continued to be kept at the current intensity and type of animal unless said property is sold, rented to another, or the animals being kept for any reason are no longer on the property. In such case(s) non-domestic animals shall no longer be allowed. (2005 Code, § 14.03) Penalty, see § 90.99

§ 90.04 ANIMAL WELFARE.

(A) *Animal bite.* Whenever any animal owner in the city learns that his or her animal has bitten any human being, that owner shall immediately notify the County Sheriff's Department and such animal shall immediately be quarantined. The quarantine period shall be for a minimum period of ten days.

(1) The owner may keep said animal provided he or she:

- (a) Has shown proof that said animal is currently vaccinated against rabies;
- (b) Agrees to keep said animal separate from other animals; and
- (c) Said animal will be kept indoors at all times during the quarantine period.

(2) If the animal is not currently vaccinated against rabies, such animal shall be quarantined in a veterinary hospital or at the City Animal Shelter for a minimum period of ten days.

(3) If the owner cannot be advised of the animal bite within two hours after the bite or the owner fails to quarantine the animal as required by this section, a police officer shall impound said animal.

(B) *Dog enclosures.*

(1) As used in this section, the term **DOG ENCLOSURE** shall mean any enclosure constructed for shutting in or enclosing dogs and having an area less than 500 square feet.

(2) Enclosures shall be screened from view of adjacent property.

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(3) No enclosure shall be placed closer than ten feet from any lot line.

(4) No enclosure shall be placed in a front yard and in no event shall it be placed closer than 30 feet of any dwelling unit other than the owners on which property the enclosure is built.

(5) No person shall permit feces, urine, or food to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors.

(C) *Adequate care of animals.*

(1) *Food.* Animals must be provided with food of sufficient quantity and quality to allow for normal growth and maintenance of body weight.

(2) *Water.* Animals must be provided with clean, fresh water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water supply.

(3) *Shelter.* Animals must be provided with shelter at all times. The shelter must be large enough to comfortably accommodate the animal, be windproof and waterproof, and contain enough bedding to provide the animal with insulation against the elements. Shade must be provided at all times during the months of May through October.

(4) *Sanitation.* It shall be unlawful for any person to allow food or water receptacles, kennels, yards, or the premises where the animal is kept to be or to remain in an unhealthy, unsanitary, or obnoxious condition or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.

(5) *Enforcement.* A police officer may issue a citation to the owner of any animal and/or remove any such animal from any premises if the welfare of that animal is threatened due to a violation of this section.

(6) *Reclaiming neglected animals.* Any animal removed from any premises pursuant to this section may be reclaimed by the owner within five working days from the time the animal was taken, provided that all conditions for which the animal was removed have been corrected. The owner shall also be liable for payment of all boarding fees to the city. Any animal not reclaimed within the time allowed may be disposed of pursuant to this section.

(7) *Responsibility to remove animal waste.* It is unlawful for the owner, caretaker, or attendant of any animal to allow it to defecate on public or private property other than his or her own, or to permit any accumulation thereof on his or her own property. If such animal does defecate on public or private property other than his or her own, it shall not be a violation of this provision if such owner, caretaker, or attendant shall immediately and thoroughly clean the fecal material from such property, and properly disposed thereof.

(2005 Code, § 14.04) Penalty, see § 90.99

§ 90.05 COMMERCIAL KENNELS, PERMIT REQUIRED.

(A) *Permit requirement.* No person, business, corporation, or other entity may breed, whelp, or raise dogs or cats for profit or sale within the city unless the person, business, corporation, or other entity has obtained a commercial kennel permit from the city. A commercial kennel may only be operated in a suitably zoned area of the city.

(B) *Application for commercial kennel permit.* Anyone making application for a commercial kennel permit must provide the following information to the office of the City Clerk: applicant's name; applicant's address; address of the location of where the breeding, whelping, or raising will occur; the types and breeds of animals concerned and the numbers of adult animals to be kept for breeding purposes. The applicant must also demonstrate that the location where the breeding, whelping, or raising will occur is suitably zoned for such activity or must obtain a variance from the City Council.

(C) *Permit duration.* A commercial kennel permit once issued will expire on January 31 of the second January after the issue date. The fee will be prorated at the rate of one-twelfth of the annual fee for each of the remaining months of the year when the commercial kennel permit is purchased. (2005 Code, § 14.05) Penalty, see § 90.99

§ 90.06 EXEMPTION FROM PROVISIONS.

Any dog under the control of any public law enforcement agency and which is used by such agency in law enforcement activities is exempt from the provisions of this chapter. (2005 Code, § 14.06)

§ 90.07 INTERFERENCE WITH OFFICERS.

It shall be a violation of this chapter for any unauthorized person to break open an animal shelter or attempt to take from any animal control officer any animal taken by such officer in compliance with this chapter, or in any manner to interfere with or hinder such officer in the discharge of his or her duties. (2005 Code, § 14.07) Penalty, see § 90.99

§ 90.08 HABITUAL BARKING.

It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. **HABITUAL BARKING** shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises. (2005 Code, § 14.08) Penalty, see § 90.99

§ 90.09 ABUSE OF ANIMALS.

It is unlawful for any person to maltreat, abuse, neglect, in a cruel or inhumane manner, any animal.
(2005 Code, § 14.09) Penalty, see § 90.99

§ 90.10 RUNNING AT LARGE.

It is unlawful for the owner of an animal to permit such animal to run at large in the city. Whenever an animal is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.
(2005 Code, § 14.01) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person who violates any provisions of this chapter shall be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(B) Upon violation of this chapter three or more times in a 12-month period, the person who is in such violation shall be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code shall be a sentence of not more than 90 days or a fine of not more than \$1,000 or both.

(C) In either case of a petty misdemeanor or misdemeanor, the costs of prosecution may be added. Each day that a violation continues shall constitute a separate violation.
(2005 Code, § 14.99)

CHAPTER 91: STREETS AND SIDEWALKS

Section

- 91.01 Application
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- 91.03 Traffic and parking control
- 91.04 Ice and snow on public sidewalks
- 91.05 Regulation of grass, weeds, and trees in streets
- 91.06 Construction and reconstruction of roadway surfacing, curb, and gutter
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- 91.10 Curb and gutter, street, and sidewalk painting or coloring
- 91.11 Sidewalk maintenance and repair

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§ 91.01 APPLICATION.

(A) The provisions of this chapter and Title VII applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles including, but not limited to, those owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, subject to such specific exemptions as may be set forth in this chapter and Title VII.

(B) Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of this chapter and Title VII applicable to the driver of a vehicle, except those provisions which by their nature can have no application. Provisions specifically referring to bicycles shall be in addition to other provisions of these chapters applying to vehicles.
(2005 Code, § 7.01)

§ 91.02 SCOPE AND ORDERS OF POLICE OFFICER.

(A) *Scope.* The provisions of this chapter and Title VII relate exclusively to the streets, alleys, and private roads in the city, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys, and private roads.

(B) *Orders of a police officer.* It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or discretion of any police officer invested by law with authority to direct, control, or regulate traffic.
(2005 Code, § 7.02) Penalty, see § 91.99

§ 91.03 TRAFFIC AND PARKING CONTROL.

(A) *Council action.* No device, sign, or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this section; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to Council action thereon.

(B) *Temporarily restricting or directing traffic and parking; curb painting.*

(1) When clearly marked, barricaded, or sign-posted, traffic and parking may be temporarily restricted for any public or private use. All such restrictions shall be in accordance with the uniform policy promulgated by the Council.

(2) Restricted or prohibited use of parking and traffic lanes may be designated by painting the same upon streets and curbs. Such work shall be done under the direction of the Public Works Director and in compliance with the provisions of this chapter and Title VII.

(3) It is unlawful to use traffic or parking lanes contrary to signposting or marking authorized and described in this section.

(4) Experimental restrictions and directions may be placed on traffic and parking by the City Administrator, and it shall be his or her duty to do so when an extra hazardous condition is observed or arises. It is unlawful to violate any restriction or direction when the same has been duly marked, barricaded, or sign-posted.
(2005 Code, § 7.03) Penalty, see § 91.99

§ 91.04 ICE AND SNOW ON PUBLIC SIDEWALKS.

(A) *Ice and snow a nuisance.* All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and the owner or tenant of such property shall cause said nuisance to be abated within the time specified on a notice of snow removal which shall be in the form of a red tag citing this section and affixed prominently to the premises. The owner or tenant of such property must remove all snow and ice the full width of the sidewalk. If the abutting property is without the Central Business District, as defined in Chapter 153, such snow and ice shall be removed within 24 hours after it has ceased to be deposited.

(B) *City to remove snow and ice.* The city may cause to be removed from all public sidewalks, all snow or ice the full width of the sidewalks which may be discovered thereon after it should have been removed therefrom in accordance with division (A) above, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.

(C) *Cost of removal to be assessed.* The City Clerk shall bill the property owner, and if payment is not received within 45 days, upon direction of the Council, extend the cost of such removal of snow and ice as a special assessment against the lots or parcels of ground abutting the walks which were cleared, and such special assessments shall be at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

(D) *Placing snow and ice in public street or on other city property.* It is a misdemeanor for any person, not acting under a specific contract with the city, to remove snow from private property or alleys and place the same on a public street in such quantity, or in such manner, as to obstruct vision or cause a hazard to travel, without adequate arrangements for the immediate removal thereof; and it is also a misdemeanor for any person not acting under a contract with the city to dump snow on other city property.

(2005 Code, § 7.04) Penalty, see § 91.99

§ 91.05 REGULATION OF GRASS, WEEDS, AND TREES IN STREETS.

(A) *City to control tree planting.* The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all streets and other public property. The city may establish and enforce uniform standards relating to the species and types of trees to be planted, placement and the maintenance, and removal thereof.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LARGE TREE. Any plant material that will grow to a height of over 50 feet.

MEDIUM TREE. Any plant material that will grow to a height of no more than 50 feet.

PARK TREE. A tree, shrub, bush, or other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

PRIVATE TREE. A tree, shrub, bush, or other woody vegetation growing on private property within the city.

PUBLIC TREE. A tree, shrub, bush, or other woody vegetation growing on any public property owned and/or managed by the city.

PUBLIC UTILITY. Any public, private, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil products, water, waste, or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.

SMALL TREE. Any plant material that will grow to a height of no more than 30 feet.

STREET TREE. A tree, shrub, bush, or other woody vegetation growing on land lying between property lines on either side of all streets, avenues, and boulevards within the city.

(C) *Tree planting requirements; species; location.*

(1) *Landscaping plan review.* In conjunction with issuing a building permit for a new dwelling, or when the development of a new subdivision or commercial property occurs, the Tree Inspector will review landscaping plans and may require trees to be planted in any of the streets, parking lots, parks, and other public places abutting the lands developed and/or subdivided, in accordance with guidelines established by the Tree Board.

(2) *Tree species.* The Tree Board shall develop and maintain a list of desirable trees for planting along streets in three size classes: small, medium, and large. Tree species list includes: sugar maple, green and black maple, hackberry, thornless hawthorne elite, American sentry linden, red oak, flowering crab, and green ash. A list of trees not suitable for planting will also be created and enforced by the Tree Board.

(3) *Spacing between trees.* The spacing of street trees will be in accordance with the three species and size classes listed in this section, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special planting designed or approved by the Tree Inspector.

(4) *Planting near utilities.* No street trees other than those species listed herein as small trees may be planted under or within ten lateral feet of any overhead utility wire.

(5) *Planting near curbs and sidewalks.* The distance street or private trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in this section, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.

(6) *Distance from corners, fire hydrants, and driveways.* No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street or private trees shall be planted closer than 15 feet to any fire hydrant, nor five feet from any driveway.

(7) *Special planting arrangements.* The Board may grant a permit for special planting arrangements that deviate from the requirements of this division (C) when special circumstances exist.

(D) *Public trees; planting, care, and removal.*

(1) *Care of public trees.* The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to ensure the public safety or to preserve or enhance the symmetry and beauty of public grounds. No other planting may be done without consent of the Tree Inspector.

(2) *Protection of public trees near construction activities.* Any tree located on city property in the immediate vicinity of any excavation, demolition, or construction site of any building, structure, street, or utilities work which has potential for injury, shall be protected from such injury.

(3) *Tree topping prohibited.* It is unlawful for any person to top any street tree, park tree, or other tree on public property. **TOPPING** is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section, as determined by the Tree Board.

(4) *Permits relating to public trees.* It is unlawful for any person to plant, remove, cut above ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the Tree Inspector. The person receiving the permit shall abide by the standards set forth in this section.

(5) *Adjacent landowner responsibility.* Owners of property adjacent to street trees shall maintain the trees by periodic watering and fertilization of street trees as necessary to maintain good health and vigor and protect the trees against damage caused by lawnmowers, weed trimmers, snow blowers, and similar equipment.

(a) *Public trees; private property owner requests; financial responsibility.* In cases where an owner of private real property abutting city property requests city actions on street trees or public trees, the requesting owner shall be financially responsible for the following:

1. Removal of trees, limbs, or roots preventing house moving or other construction activities;
2. Removal of trees, limbs, or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists; and
3. Spraying, fertilizing, or treatment other than may be regularly conducted on a city-wide basis by the city.

(b) *Financial responsibility.* Financial responsibility does not eliminate the requirement of obtaining necessary permits required by this section.

(2005 Code, § 7.05) Penalty, see § 91.99

§ 91.06 CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, CURB, AND GUTTER.*(A) Methods of procedure.*

(1) Abutting or affected property owners may contract for, construct, or reconstruct roadway surfacing 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) With or without petition by the methods set forth in the Local Improvement Code of state 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 curb and gutter, driveway, or roadway surfacing in any street or other public property in the city without a permit in writing from the city. Application for such permit shall be made on forms approved and provided by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All applications may be referred to the City Engineer and no permit shall be issued until approval has been received. All such 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 such work.

(C) Specifications and standards. All construction and reconstruction of roadway surfacing 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 Administrator and open to inspection and copying there. Such specifications and standards may be amended from time-to-time by the Council, but shall be uniformly enforced.

(D) Inspection. The Building Official, Public Works Director, or the City Engineer shall inspect such 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 Inspector or the City Engineer 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 such work.

(2005 Code, § 7.06) Penalty, see § 91.99

§ 91.07 STREET OPENINGS OR EXCAVATIONS.

No person, firm, or corporation shall make an excavation within any street, alley, or easement on the city for the purpose of installing steam or gas pipes, electric or telephone conduits, or for any other purpose without first obtaining a permit for such excavation from the city. A permit shall not be required

for any work undertaken on behalf of the city. All permittees shall meet the requirements as specified by the City Engineer. A permit shall be required for individual home hook-ups, only where excavation in the street or alley is necessary.

(A) *Application.*

(1) Application for permits shall be made in writing to the city. Said application shall contain pertinent information applicable to the proposed project and may be reviewed by the City Engineer.

(2) Permits shall be issued in writing and shall be kept on the site of the work while it is in progress and in the custody of the individual in charge. It shall be exhibited upon the request by any city official.

(3) Before any permit is issued, the applicant requesting the permit, except those holding utility franchises, shall pay a fee as fixed and determined by the Council, and adopted by ordinance, and uniformly enforced, for each location covered by the permit. Each transverse excavation and each 300 feet or portion thereof on longitudinal excavation shall be deemed a location.

(B) *Work progress.* Work shall progress in an expeditious manner until completion in order to avoid unnecessary inconvenience to traffic. In the event that the work shall not be performed in accordance with requirements of this chapter, shall cease, or shall be abandoned without due cause, the city may, after six hours notice in writing to the holder of said permit, cause said work to be completed. In any such event the entire cost of the city of said work shall be a liability of, and shall be paid, by the person, firm, or corporation to whom the permit is issued.

(C) *City held harmless.* All permit holders shall indemnify and save harmless the city from all damage caused in the execution of such work or costs in connection with the repair of the streets, alleys, or easements excavated, and that the holder will pay any and all damages that will be suffered by the city by reason of the failure of the person securing the permit to observe the terms of this chapter or by reason of negligence in the execution of the work.

(D) *Utility connection permits.* The provisions of this chapter are not in lieu of but in addition to all utility connection permits that may be required by ordinance, or by the rules and regulation of the City Engineer.

(E) *Notification.* Any person or firm to whom a street excavation permit or work contract has been issued shall notify all utility companies of the intent to excavate. This notification shall be given not less than 48 hours in advance of the commencement of the work and shall indicate the time, place, and purpose of the street excavation. Any person or firm to whom a street excavation permit or work contract has been issued shall have the duty of determining the location and depth of all underground utility installations. If a utility line is broken or damaged in any way, the permittee or contractor shall immediately notify the utility owner.

(F) *Method of refilling excavation.* Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good

condition as before the excavation to the satisfaction of the city. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley, or public ground to its proper condition.

(G) *Supervision.* Refilling an excavation may not begin without four hours' notice by the permittee to the city. Upon completion of the refilling and restoration of the street surface to the satisfaction of the city staff, the permit shall be returned to the city with a certification of completion signed by the permittee.

(H) *Map of subsurface installations.*

(1) The city shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds, or right-of-way.

(2) The information on the map shall be sufficiently complete and accurate to permit anyone making an excavation in a public place having any underground installation to avoid damage to any existing underground installation and to properly locate any new underground facilities shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of a contract for the installation of city underground installations.

(2005 Code, § 7.07)

§ 91.08 REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.

(A) *Requirement of sewer and water laterals.* No petition for the improvement of a street shall be considered by the Council if such 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 such street will be served by such 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 such notice and hearing as the Council may deem necessary or proper. (2005 Code, § 7.30)

§ 91.09 LOAD LIMITS.

The Public Works Director may from time-to-time impose upon vehicular traffic on any part or all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent or

weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

(2005 Code, § 7.31) Penalty, see § 91.99

§ 91.10 CURB AND GUTTER, STREET, AND SIDEWALK PAINTING OR COLORING.

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 such coloring may be approved by the City Administrator.

(2005 Code, § 7.32) Penalty, see § 91.99

§ 91.11 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 such 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 City Administrator.

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

(D) *Notice - emergency.* Where, in the opinion of the City Administrator, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ten days, and shall be mailed to the owner or owners shown to be such 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 City Administrator shall report such failure to the Council and the Council may order such 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 Public Works Director to inspect sidewalks within the city or cause the same to be inspected under his or her direction.

(G) Agreement to share expense of reconstruction or repair.

(1) Where, in the opinion of the City Administrator, a section of sidewalk requires reconstruction or repair, the city, at its option, may enter into an agreement with the owner of the abutting property for the reconstruction or repair of the sidewalk. Under such an agreement, the city may perform the work and assess the abutting owner an agreed upon amount as his or her cost to reconstruct the sidewalk. In the event that the abutting owner should fail to pay the agreed upon amount, that amount shall be certified for collection as other special assessments are certified and collected.

(2) If the owner of the abutting property does not wish to enter into such an agreement, he or she may hire a private contractor to reconstruct the sidewalk. In such cases, the city shall contribute \$2 per square foot toward the cost of reconstruction, provided it is determined, in advance, by the city that reconstruction is required. In the event that a private contractor performs the work, the work must be performed according to specifications established by the city. In addition, the work must be approved by the City Building and Zoning Administrator before the city's contribution shall be made.
(2005 Code, § 7.33)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 91.01 to 91.08 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$700 or by imprisonment of not more than 90 days, or both, plus the costs of prosecution in either case.
(2005 Code, § 7.07)

(C) (1) Any person, firm, or corporation who violates any provision of §§ 91.09 to 91.11 for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under §§ 91.09 to 91.11, including state 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.

(2) Any person, firm, or corporation who violates any provision of §§ 91.09 to 91.11, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either 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.

(4) The failure of any officer or employee of the city to perform any official duty imposed by §§ 91.09 to 91.11 shall not subject the officer or employee to the penalty imposed for violation. (2005 Code, § 7.99)



CHAPTER 92: NUISANCES

Section

- 92.01 Public nuisance defined
- 92.02 Public nuisance affecting health
- 92.03 Public nuisance affecting peace and safety
- 92.04 Duties of the city
- 92.05 Residential parking and storage
- 92.06 Abatement of nuisance
- 92.07 Declaration of storage of abandoned and inoperative vehicle as public nuisance
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- 92.99 Penalty

§ 92.01 PUBLIC NUISANCE DEFINED.

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;

(C) Whoever having control of real property permits it to be used to maintain a public nuisance;

(D) Contributes to neighborhood blight; or

(E) Is guilty of any other act or omission declared by law or this chapter to be a public nuisance and for which no sentence is specifically provided.

(2005 Code, § 13.01) Penalty, see § 92.99

§ 92.02 PUBLIC NUISANCE AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

(C) All ponds or pools of stagnant water;

(D) Accumulations of manure, refuse, or other debris:

(1) It is unlawful for any person to deposit his or her refuse on or in the property of another person or business. This includes so called dumpsters located at various public places owned by the city such as, but not exclusively, parks. Excepting garbage generated at the site of said dumpsters in the normal use of the facilities is to be deposited in that facility's dumpster; and

(2) It is unlawful for any person to allow the accumulation of refuse on private property.

(E) 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;

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

(G) All noxious weeds, grasses, and other rank growth of vegetation upon public or private property:

(1) It is the primary responsibility of any owner, occupant, or agent of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; to treat or remove insect-infested or diseased trees thereon; and, when deciduous trees have seasonally lost their leaves, to clean up and remove such leaves from such premises;

(2) It is unlawful for any owner, occupant, or agent of any lot or parcel of land to allow any weeds or grass growing upon any such lot or parcel of land to grow to a greater height than six inches or to allow such weeds or grass to go to seed;

(3) It is unlawful for any owner, occupant, or agent of any lot or parcel of land to fail to promptly, when deciduous trees have seasonally lost their leaves, to clean up and remove such leaves from such premises;

(4) It is unlawful for any owner, occupant, or agent of any lot or parcel of land to fail to remove all public health or safety hazards thereon, or to fail to install or repair water service lines thereon, or to fail to treat or remove insect-infested or diseased trees thereon; and

(5) If any such owner, occupant, or agent fails to comply with this division (G), and after notice given by the city, has not within 48 hours of such notice complied, the city shall cause such weeds or grass to be cut, or leaves to be cleaned up and removed, or public health or safety hazards removed, or water service lines repaired, or diseased or insect-infested trees treated or removed, and the expense thus incurred, including administrative costs, shall be the personal liability of the owner of such premises. A bill, indicating the cost, shall be sent to the owner, occupant, or agent. If the total amount is not paid in accordance with the terms indicated on the bill, the amount of the costs and expenses incurred plus accrued interest on the unpaid balance shall be certified to the County Auditor and shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes and special assessments.

(H) Disease control and prevention of trees include the following.

(1) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Includes:

1. Any living or standing tree infected to any degree with a shade tree disease; or
2. Any logs, branches, stumps, or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the Tree Inspector.

SHADE TREE DISEASE. Dutch elm disease or oak wilt disease.

TREE INSPECTOR. The employee of the city designated by the Council, together with his or her duly designated assistants.

(2) *Scope and adoption by reference.* M.S. §§ 18.75 through 18.91, inclusive, are hereby adopted by reference, together with the rules and regulations of the state's Commissioner of Agriculture relating to shade tree diseases; provided, that this section shall supersede such statutes, rules, and regulations, only to the extent of inconsistencies.

(3) *Unlawful act.* It is unlawful for any person to keep, maintain, or permit upon premises owned by him or her or upon public property where he or she has the duty of tree maintenance, any nuisance has herein defined.

(4) *Inspection and diagnosis.* It is the power and duty of the Tree Inspector to enter upon public and private property, at any reasonable time, for the purpose of inspecting for and diagnosing shade tree disease, and marking diseased trees by painting thereon an "X" within a circle of orange paint. In cases

of suspected shade tree disease, and in performance of his or her duties, the Tree Inspector may remove such specimens, samples, and biopsies as may be necessary or desirable for diagnosis.

(5) *Abatement of nuisance.* Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designed by the state's Commissioner of Agriculture. The city shall establish specifications for tree removal and disposal methods consistent therewith.

(6) *Procedure for removal of infected trees and wood.* Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, he or she shall proceed as follows.

(a) If the Tree Inspector finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease, he or she shall make a written report of his or her finding to the Council which shall proceed by abating the nuisance as a public improvement under M.S. Chapter 429, or abating the nuisance as provided in division (G) above.

(b) If the Tree Inspector finds that danger of infection of other trees is imminent, he or she shall notify the owner of the property, or the abutting property, as the case may be, by mailed notice that the nuisance will be abated within a specified time, not less than 20 days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice he or she may abate the nuisance.

(c) If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, he or she may proceed to abate the nuisance forthwith. He or she shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.

(7) *Report of Tree Inspector.* Upon receipt of the Tree Inspector's report required by division (H)(6)(c) above, the Council shall be resolution order the nuisance abated.

(8) *Record of costs.* The Tree Inspector shall keep a record of the costs of abatements done under this division (H) and shall report monthly to the City Administrator 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.

(9) *Unpaid charges.* Prior to October 1 of each year, the Tree Inspector shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under M.S. § 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

(10) *Liability.* No damage shall be awarded the owner for destruction of any tree, wood, or part thereof pursuant to this section.

(11) *Spraying of trees.* Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, he or she may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this division (H) shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his or her agents whenever possible. The notice and assessment provisions of division (H)(6) above apply to spraying and treatment operations conducted under this division (H)(11).

(I) Storage restrictions include the following.

(1) Firewood shall be stored in compact and orderly fashion so as not to constitute a hazard to adjacent buildings or property and to endanger the public health; all firewood shall be stored or stacked up off the surface of the ground.

(2) Stacks of wood in the open shall not exceed six feet in the height and shall not be located less than five feet from a boundary line, without consent of adjacent property owners.

(3) There shall be no front yard or front lot storage of firewood in the city, provided that this division (I)(3) shall not prevent businesses that sell firewood from displaying firewood to the public in a manner that is deemed necessary for said business purposes, as long as said storage and display does not violate any other of the provisions of the section.

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

(K) Storing of hazardous materials such as gasoline, paint, oil, and other hazardous chemicals unless it is in an enclosed building.

(2005 Code, § 13.02) Penalty, see § 92.99

§ 92.03 PUBLIC NUISANCE AFFECTING PEACE AND SAFETY.

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

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

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

(C) All unnecessary noises and annoying vibrations;

(D) Every motor vehicle shall at all times be equipped with a muffler in good working order which blends the exhaust noise into the overall vehicle noise and is in constant operation to prevent excessive

or unusual noise, and no person shall use a dynamic engine or transmission brake, muffler cutout, bypass, or similar device upon a motor vehicle on a street or highway. The exhaust system shall not emit or produce a sharp popping or crackling sound;

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

(F) Radio aerials or television antennas erected and maintained in a dangerous manner;

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

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

(I) 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;

(K) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

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

(M) Accumulation of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner creating fire, health, or safety hazards from such accumulation;

(N) All materials not intended for or a part of landscaping or functionability of the property shall be stored inside a structure suitable for storage or concealed from public view;

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

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

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

(R) The depositing of garbage, refuse, or debris on public or private property; and

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

(2005 Code, § 13.03) Penalty, see § 92.99

§ 92.04 DUTIES OF THE CITY.

The city shall enforce the provisions of this chapter, and shall have the power to take all reasonable precautions to prevent the commission and maintenance of public nuisances.
(2005 Code, § 13.04)

§ 92.05 RESIDENTIAL PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;
- (3) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;
- (4) Decreases adjoining landowners and occupants' enjoyment of their property and neighborhood; and/or
- (5) Otherwise adversely affects property values and neighborhood patterns.

(B) *Standards for outside parking and storage.*

(1) Properly licensed and operable (non-commercial) motor vehicles, recreational vehicles/equipment, construction or landscaping materials/equipment currently being used on the property, and properly stacked firewood may be stored on residential property. All other items must be stored within an enclosed structure.

(2) (a) *Storage requirements.* Properly licensed and operable vehicles, trailers, recreation vehicles, and fire wood shall be parked and stored:

1. In side yards or rear yards; and
2. Upon concrete, bituminous, or paved surface having well-defined and hard-surfaced driveway access.

(b) *Exceptions.*

1. Driveways in rear yards adjacent to gravel surfaced alleys may access paved parking area.

2. Properly stacked firewood may be allowed to be stacked upon any ground surface if elevated a minimum of four inches above ground.

(3) Mowers, snow blowers, and other property maintenance equipment shall be stored in an enclosed structure.

(4) Storage of any material or equipment in connection with any business shall be stored in an enclosed structure.

(2005 Code, § 13.05)

§ 92.06 ABATEMENT OF NUISANCE.

(A) *Procedure.* Whenever it is determined that a public nuisance is being maintained or exists on premises in the city, the Administrative Assistant shall notify in writing the owner of record or occupant of the premises of such fact and order that such nuisance be determined 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 Building and Zoning Administrator shall report the fact forthwith to the Council. Thereafter, the 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.

(B) *Notice.* Written notice of violation, notice of 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 division (B).

(1) *Notice of violation.* Written notice of violation shall be served in person by the Building and Zoning Administrator upon the owner of the property upon which nuisance exists. If the premises are not occupied, if the owner of record is unknown, or if other owner of record or occupant refuses to accept notice of Council hearing, notice of violation shall be served by posting it on the premises.

(2) *Notice of Council hearing.* Written notice of City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises in person by the Building and Zoning Administrator. If the premises is not occupied, if the owner of record is unknown, or if the owner of record or occupant refuses to accept notice of Council hearing, notice of 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).

(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).

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above 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, it shall be determined that a public nuisance exists or is being maintained on the premises in the city and that delay in abatement of the nuisance will unreasonably endanger public, health, safety, or welfare. The Building and Zoning Administrator shall notify the owner in writing of his or her intent to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement. The City Council shall determine whether 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) above, and may order that such 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.

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

(E) *Recovery of cost.* The owner of the premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Treasurer or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Treasurer. If payment is not received, the City Council may direct that the amount due be certified to the county and assessed against the property. (2005 Code, § 13.06)

§ 92.07 DECLARATION OF STORAGE OF ABANDONED AND INOPERATIVE VEHICLE AS PUBLIC NUISANCE.

(A) *Nuisance declared.* The presence, accumulation, or improper storage of abandoned motor vehicles on real property is hereby found to create an unsightly condition tending to reduce the value of real property or adversely affect the health and safety of minors. The accumulation and outside storage of such motor vehicles is further found to promote blight and deterioration in the community; to violate the zoning regulations of the city in many instances; particularly where such motor vehicles are maintained in required setback areas of residential property. It is further found that such abandoned motor vehicles are often in the nature of rubbish, litter, and unsightly debris in violation of the health and sanitation laws. Therefore, the accumulation and storage of such motor vehicles on real property is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this chapter or other ordinances of this city or by state law.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. A motor vehicle that:

(a) Has remained illegally:

1. For a period of time more than 48 hours on any property owned or controlled by a unit of government or more than four hours on that property when it is properly posted;

2. On private property for a period of time, as determined under M.S. § 168B.04, Subd. 2, without the consent of the person in control of the property; or

3. Lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(b) A classic car or pioneer car, as defined in state statutes, is not considered an **ABANDONED VEHICLE**. The vehicle owner must be able to show proof of current registration with the Commissioner of Public Safety.

(c) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with state law, or that are licensed and maintained in accordance with this code and zoning regulations, are not considered **ABANDONED VEHICLES**.

(d) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is no affect.

IMPOUND. To take and hold a vehicle in legal custody. There are two types of impounds, public and nonpublic.

IMPOUND LOT OPERATOR or **OPERATOR.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **OPERATOR** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

JUNK VEHICLE. A vehicle that:

(a) Is three years old or older;

(b) Is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission;

(c) Is apparently inoperable;

(d) Does not have a valid, current registration plate; and

(e) Has an approximate fair market value equal only to the approximate value of the scrap in it.

MOTOR VEHICLE. Every vehicle which is self-propelled. **MOTOR VEHICLE** does not include a vehicle moved solely by human power.

NET PROCEEDS. The sales price less any costs of handling, storing, or sale of said vehicle.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to M.S. § 168B.04, Subd. 2, or M.S. § 169.041, but is not a junk vehicle or an abandoned vehicle.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train, and wheels.

(C) *Abandoned vehicles.*

(1) *Custody and impoundment of abandoned vehicles.* The city may take into custody and impound abandoned vehicles as defined in division (B) above.

(2) *Notice of taking and sale of abandoned vehicle.*

(a) *Notice within five days.* When an abandoned vehicle is taken into custody, the city shall give notice of the taking within five days.

(b) *Contents of notice.* This notice shall:

1. Set forth the date and place of the taking; the year, make, model, and serial number of the abandoned vehicle if such information can be reasonably obtained; and the place where the vehicle is being held;

2. Inform the owner and any lienholders of their right to reclaim the abandoned vehicle under state law and division (C)(3) below; and

3. State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under state law and this section shall be deemed a waiver by them of all right, title, and interest in the vehicle and contents and consent to the transfer of title to a disposal or sale of the vehicle and contents pursuant to state law and this section.

(c) *Notice by mail or publication.* The notice regarding abandoned vehicles shall be sent by mail to the registered owner, if any, and to all readily identifiable lienholders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the city. Published notices may be grouped together for convenience and economy.

(3) *Reclaiming abandoned vehicles; sale after 15 days.* An abandoned vehicle is eligible for disposal or sale 15 days after notice to the owner. The owner or any lienholder of an abandoned vehicle

shall have a right to reclaim the vehicle from the city and impound lot operator upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice to the owner.

(4) *Sales receipt for purchase of abandoned vehicles.* If an abandoned vehicle and contents taken into custody by the city is not reclaimed properly, it may be disposed of or sold at 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. Pursuant to state law, before such vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(5) *Unsold abandoned vehicles.* Abandoned vehicles not sold by the city shall be disposed of in accordance with state law.
(2005 Code, § 13.07)

§ 92.08 JUNK VEHICLES.

(A) *Custody and impoundment of junk vehicles.* The city may take into custody and impoundment, junk vehicles as defined in § 92.07(B).

(B) *Notice of taking and sale of junk vehicles.*

(1) *Notice within five days.* When a junk vehicle is taken into custody, the city shall give notice of the taking within five days.

(2) *Contents of notice.* The notice shall:

(a) Set forth the date and place of the taking; the year, make, model, and serial number of the junk vehicle if such information can be reasonably obtained, and the place where the vehicle is being held;

(b) Inform the owner and any lienholders of their right to reclaim the junk vehicle under state law and division (C) below; and

(c) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under state law and division (C) below shall be deemed a waiver by them of all right, title, and interest in the vehicle and contents and a consent to the transfer of title to a disposal or sale of the vehicle and contents pursuant to state law and this section.

(3) *Notice by mail or publication.* The notice regarding junk vehicles shall be sent by mail to the registered owner, if any, and to all readily identifiable lienholders of record. If it is impossible to

determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the city. Published notices may be grouped together for convenience and economy.

(C) *Reclaiming junk vehicles; sale after 15 days.* A junk vehicle is eligible for disposal or sale 15 days after notice to the owner. The owner or any lienholder of a junk vehicle shall have a right to reclaim the vehicle from the city and impound lot operator upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice to the owner.

(D) *Sales receipt for purchase of junk vehicle.* If a junk vehicle and contents taken into custody by the city is not reclaimed properly, it may be disposed of or sold at 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. Pursuant to state law, before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(E) *Immediate custody and impoundment of vehicles.* The city may take into custody and impound any unauthorized vehicle immediately in the following cases:

(1) An unattended vehicle that is on private property:

- (a) That is a single-family or duplex residential property;
- (b) That is private, nonresidential property that is properly posted; or
- (c) That is any residential property that is properly posted.

(2) An unattended vehicle on public property not governed by M.S. § 169.041 and is located so as to constitute an accident or traffic hazard to the traveling public as determined by a peace officer.

(F) *Other custody and impoundment requirements of unauthorized vehicles.* A vehicle may also be impounded after it has been left unattended in one of the following locations for the indicated period of time:

(1) In a public location not governed by M.S. § 169.041:

- (a) On a highway and properly tagged by a peace officer: four hours; and/or
- (b) That is a parking facility or other public property owned or controlled by the city that is properly posted: four hours.

(2) On private property that is private, nonresidential property, not posted: 24 hours.

(G) *Notice of taking and sale of unauthorized vehicles.*

(1) *Notice within five days.* When an unauthorized vehicle is taken into custody, the city shall give notice of the taking within five days.

(2) *Contents of notice.* The notice shall:

(a) Set forth the date and place of the taking; the year, make, model, and serial number of the unauthorized vehicle as such information can be reasonably obtained and the place where the vehicle is being held;

(b) Inform the owner and lienholders of their right to reclaim the unauthorized vehicle under state law and division (H) below; and

(c) State that failure of the owner or lienholder to exercise his or her right to reclaim the vehicle and contents within the appropriate time allowed under state law and division (H) below shall be deemed a waiver by him or her of all right, title, and interest in the vehicle and contents and a consent to the transfer of title to a disposal or sale of the vehicle and contents pursuant to state law and this section.

(3) *Notice by mail or publication.* The notice regarding unauthorized vehicles shall be sent by mail to the registered owner, if any, and to all readily identifiable lienholders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and lienholders, the notices shall be published once in a newspaper of general circulation in the city. Published notice may be grouped together for convenience and economy.

(4) *Second notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under this division (G) and state law, a second notice shall be sent by certified mail return receipt requested to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

(H) *Reclaiming unauthorized vehicles; sale after 45 days.* An unauthorized vehicle is eligible for disposal or sale 45 days after the second notice to the owner. The owner or any lienholder of an unauthorized vehicle shall have a right to reclaim the vehicle from the city and impound lot operator upon payment of all towing and storage charges resulting from taking the vehicle into custody within 45 days after the date of the second notice to the owner.

(I) *Sales receipt for purchase of unauthorized vehicles.*

(1) If an unauthorized vehicle and contents taken into custody by the city is not reclaimed properly, it may be disposed of or sold at 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. Pursuant to state law, before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(2) From the proceeds of a sale under this section and by state law, by the city or the public impound lot of an abandoned junk or unauthorized vehicle, the city shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all administrative, notice, and publication costs incurred in handling the vehicle pursuant to this section of the city code and state law. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in a fund in the General Fund to cover the costs of notices and other expenses mandated by this section and state law.

(2005 Code, § 13.08)

§ 92.09 SALE PROCEEDS BY NON-PUBLIC IMPOUND LOTS.

The operator of a non-public impound lot may retain any proceeds from a sale conducted under the authority of state law. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

(2005 Code, § 13.09)

§ 92.10 IMPLIED CONSENT TO SELL.

A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under M.S. § 168B.051 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

(2005 Code, § 13.10)

§ 92.11 AUTHORITY TO CONTRACT FOR TOWING SERVICES.

(A) *Contract.* The city may enter into a contract on behalf of the city with any person, firm, or corporation who will obtain or provide adequate facilities within the city to handle the tows and the storage of vehicles requested by the city. Such contract shall set forth the fees, which fees shall not be exceeded in any case involving the tow or storage requested by the city.

(B) *Bond.* Every towing operator to whom a contract is awarded for towing and storage shall, upon the execution of such contract, file with the City Clerk a bond approved by the City Attorney in such amount as may be determined by the contract. Such bond shall be conditioned that the principal will indemnify any and all persons, firms, or corporations including the city and the county or other governmental agencies of this state, for any loss sustained by any unlawful or unauthorized damage to a vehicle which is towed at the request of the city or stored by said towing operator, pursuant to the provisions of this section and any contract entered into where the city is a party thereof.

(C) *Statements.* The towing operator who has entered into a contract pursuant to this section shall forward to the city a copy of such bill or statement prepared for each owner of a vehicle towed or stored at the request of the city.

(D) *Exclusion.* Nothing contained in this chapter shall be deemed to prohibit, limit, or restrict the use or operation of towing equipment or storage facilities by the city, county, or school district. (2005 Code, § 13.11)

§ 92.12 CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES.

(A) *Purpose and intent.* The purpose of this section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dump may exist. The City Council finds such sites are a public health hazard as they may contain suspended chemicals and residues that place people, particularly adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.

(B) *Interpretation and application.*

(1) In their interpretation and application, the provisions of this section shall be construed to protect the public health, safety, and welfare.

(2) Where the conditions imposed by any provision of this section are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or regulations shall prevail.

(C) *Fees.* Fees for the administration of this section may be established and amended periodically by ordinance of the City Council, and shall be assessable to the property involved.

(D) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHEMICAL DUMPSITE. Any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

CLANDESTINE DRUG LAB. The unlawful manufacture or attempt to manufacture controlled substances.

CLANDESTINE DRUG LAB SITE. Any place or area where law enforcement has determined that conditions associated with operation of unlawful clandestine drug lab exist. A **CLANDESTINE DRUG LAB SITE** may include dwellings, accessory buildings, accessory structures, a chemical dumpsite, or any land.

CONTROLLED SUBSTANCE. A drug, substance, or immediate precursor in Schedules I through V of M.S. § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

HOUSEHOLD HAZARDOUS WASTES. Waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported, or disposed of in a manner consistent with the state's Department of Health, the state's Pollution Control Agency, and the county's Public Health Department rules and regulations.

MANUFACTURE, IN PLACES OTHER THAN A PHARMACY. Includes the production, cultivation, quality control, and standardization, by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, re-labeling, filling, or by other process, of a controlled substance.

OWNER. Any person, firm, or corporation who owns, in whole or in part, the land, buildings, or structures associated with a clandestine drug lab site or chemical dumpsite.

PUBLIC HEALTH NUISANCE. All dwellings, accessory structures, and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a **PUBLIC HEALTH NUISANCE**.

(E) *Administration.*

(1) *Law enforcement notice to other authorities.* Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner if known, and conditions found.

(2) *Declaration of property as a public health nuisance.* Upon notification by law enforcement authorities, the Building and Zoning Administrator shall promptly issue a declaration of a public health nuisance for the affected property and post a copy of the declaration at the probable entrance to the dwelling or property. The Building and Zoning Administrator shall also notify the owner of the property and the following parties by U.S. mail:

- (a) Occupants of the property;
- (b) Owners of the property within 100 feet of the nuisance property;
- (c) The County Sheriff's Department; and

(d) Other state and local authorities, such as MPCA and MDH, which are known to have public and environmental protection responsibilities that are applicable to the situation.

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(3) *Property owner's responsibility to act.* The Building and Zoning Administrator shall also issue an order to abate the public health nuisance, including the following:

(a) Immediately vacate those portions of the property including building or structure interiors, which may place the occupants or visitors at risk;

(b) Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling. The property owner shall notify the city of actions taken and reach an agreement with the city on clean-up schedule. The city shall consider practical limitations and the availability of contractors in approving the schedule for clean-up; and

(c) Provide written documentation of the clean-up process, including a signed statement from the contractor that the property is safe for human occupancy and that the clean-up was conducted in accordance with the state's Department of Health guidelines.

(4) *Property owner's responsibility for costs.* The property owner shall be responsible for all costs of decontamination or clean-up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. Public costs may include, but not limited to:

(a) Posting of the site;

(b) Notification of affected parties;

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

(d) Laboratory fees;

(e) Clean-up services;

(f) Administrative fees; and

(g) Other associated costs.

(5) *Recovery of public costs.*

(a) If, after service of notice of the declaration of public health nuisance, the property owner fails to arrange appropriate assessment and cleanup, the Building and Zoning Administrator is authorized to proceed in a prompt manner to initiate the on-site assessment and clean-up.

(b) If the city is unable to locate the property owner within ten days of the declaration of public health nuisance, the city is authorized to immediately proceed to initiate the on-site assessment and clean-up.

(c) The city may abate the nuisance by removing the hazardous structure or building or otherwise, according to M.S. Chapter 463.

(d) If the city abates the public health nuisance, in addition to any other legal remedy, the city shall be entitled to recover all costs and fees for administration and enforcement hereof. The city may recover costs and fees by civil action against the person or persons who own the property or by assessing such costs and fees as a special tax against the property in the manner as taxes and special assessments are certified and collected pursuant to M.S. Chapter 429.

(6) *Authority to modify or remove declaration of public health nuisance.*

(a) The Building and Zoning Administrator is authorized to modify the declaration conditions or to remove the declaration of public health nuisance.

(b) Such modifications or removal of the declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.

(2005 Code, § 13.12) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state 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.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either 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.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.

(2005 Code, § 13.99)

(B) Any violation of §§ 92.01 to 92.03 shall be a misdemeanor and punishable pursuant to the laws of the state regarding misdemeanor offenses.
(2005 Code, § 13.04)

CHAPTER 93: MISCELLANEOUS MISDEMEANORS

Section

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GENERAL PROVISIONS

§ 93.01 DANGEROUS TRESPASSES AND OTHER ACTS.

It is unlawful for any person to:

(A) Smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted;

(B) Interfere with or obstruct the prevention or extinguishing of any fire, or destroy the lawful orders of a law enforcement officer or firefighter present at the fire;

(C) Show a false light or signal or interfere with any light, signal, or sign controlling or guiding traffic upon a highway, railway track, or navigable water;

(D) Place an obstruction upon a railroad track;

(E) Expose another or his or her property to an obnoxious or harmful gas, fluid, or substance, with intent to injure, molest, or coerce;

(F) Trespass or permit animals under his or her control to trespass upon a railroad track;

(G) Permit domestic animals or fowl under his or her control to go upon the lands of another within the city;

(H) Interfere unlawfully with any monument, sign, or pointer erected or marked to designate a point of a boundary, line, or a political subdivision, or a tract of land;

(I) Trespass upon the premises of another, and without claim of right refuses to depart therefrom on demand of the lawful possessor;

(J) Occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation;

(K) Enter the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing thereon without the permission of the owner or occupant; or

(L) Without the permission of the owner, tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

(2005 Code, § 10.20) Penalty, see § 93.99

§ 93.02 UNLAWFUL ASSEMBLY; PRESENCE AT UNLAWFUL ASSEMBLY.

(A) *Unlawful assembly*. It is unlawful for three or more persons to assemble, and each participant shall be guilty of unlawful assembly, if the assembly is:

(1) With intent to commit any unlawful act by force;

(2) With intent to carry out any purpose in such manner as will disturb or threaten the public peace; or

(3) Without lawful purpose but the participants conduct themselves in a disorderly manner as to disturb or threaten the public peace.

(B) *Presence at unlawful assembly.* It is unlawful for any person to be present at the place of an unlawful assembly and refuse to leave when so directed by a law enforcement officer.
(2005 Code, § 10.21) Penalty, see § 93.99

§ 93.03 DISORDERLY CONDUCT.

It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger, or disturb others or provoke any assault or breach of the peace, to do or permit upon premises owned or controlled by him or her, the following:

(A) Engage in brawling or fighting;

(B) Disturb an assembly or meeting, not unlawful in its character;

(C) Engage in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others;

(D) Willfully and lewdly expose his or her person or the private parts thereof, or procures another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;

(E) Voluntarily enter the water of any lake, river, or city public swimming pool between the hours of 10:00 p.m. and 8:00 a.m. except with specific permission;

(F) Enter such water without being garbed in a bathing suit sufficient to cover his or her person and equal to the standards generally adopted and accepted by the public;

(G) Race the motor of any motor vehicle;

(H) Cause the spinning or skidding of wheels or tires causing tire squeals or similar noise;

(I) Cause the making or production of an unnecessary noise by shouting or by any other means of mechanism, including the blowing of any automobile or other vehicle horn;

(J) Use a flash or spotlight in a manner so as to annoy or endanger others;

(K) Drink or display any intoxicating liquor or non-intoxicating malt liquor in or about any premises where such drinking or display is prohibited by law;

(L) Cause defacement, destruction, or otherwise damage to any premises or any property located thereon;

(M) Strew, scatter, litter, throw, dispose of, or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose;

(N) Enter any motor vehicle of another without the consent of the owner or operator; or

(O) Fail or refuse to vacate or leave the premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises may be present thereon at that time as part of his or her official duty, nor shall it include the wife, children, employee, or tenant of such owner or occupier.

(2005 Code, § 10.22) Penalty, see § 93.99

§ 93.04 CONCEALING IDENTITY.

It is unlawful for any person to conceal his or her identity in a public place by means of a robe, mask, or other disguise, unless incidental to amusement or entertainment.

(2005 Code, § 10.23) Penalty, see § 93.99

§ 93.05 WINDOW PEEPING.

It is unlawful for any person to go upon the private premises of another, and in a surreptitious manner look, gaze, stare, or peep into any window, door, or other opening in any building located thereon which is occupied by a person or persons as a place of abode with intent to intrude upon the privacy of a member of the household thereof.

(2005 Code, § 10.24) Penalty, see § 93.99

§ 93.06 RULES AND REGULATIONS GOVERNING PUBLIC PARKS.

(A) *Adoption.* The Council may by ordinance adopt, and from time to time amend, rules and regulations governing public parks. It is unlawful to violate such rules and regulations as are conspicuously sign-posted in such parks.

(B) *Alcoholic beverages.* In addition to the foregoing, it is unlawful for any person to consume or possess in an unsealed container, beer or liquor, as those terms are defined in Chapter 111, in Harmon Park.

(C) *Minnow harvest.* Minnow harvest is prohibited within the boundaries of the Hiawatha Pageant Park, except by a permit granted by the Council.

(2005 Code, § 10.41) (Ord. 119, passed 9-8-2020) Penalty, see § 93.99

§ 93.07 OPEN PITS, BASEMENTS, AND OTHER EXCAVATIONS.

It is unlawful for any person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool, or other excavation on said premises open and without protection for the public. (2005 Code, § 10.60) Penalty, see § 93.99

§ 93.08 RADIO AND TELEVISION INTERFERENCE.

(A) It is unlawful for any person to maintain, use, or operate any apparatus or device, whether electrical, mechanical, or of any other type, so as to cause interference with radio, television reception, or other radio receiving devices.

(B) This section shall not apply to electro-medical devices provided that they are equipped so far as reasonably possible with apparatus tending to reduce such interference. (2005 Code, § 10.61) Penalty, see § 93.99

§ 93.09 STORAGE OF AGRICULTURAL CHEMICALS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL CHEMICALS. All fertilizers, pesticides, and any other chemicals or chemical compounds used in the agricultural or any agriculturally related industry or business.

(B) *Storage areas.* The location of all storage areas for agricultural chemicals shall be reported in writing to the Sheriff's Department and the Fire Department, such writings to contain the location and layout of the storage area, types of materials stored, hazards involved, and the names, telephone numbers, and addresses of the persons responsible for the storage.

(C) *Unlawful acts.* It is unlawful for any person to fail to:

- (1) Lock all storage areas for agricultural chemicals when not in use;
- (2) Store all containers containing pesticides a sufficient distance away from windows and other openings, and out of the sun, so that they will not be subject to heat and ignition;
- (3) Store all combustible agricultural chemicals a sufficient distance away from steam lines and heat so as not to be subject to heat and ignition; and/or
- (4) Store all highly toxic pesticides in one common area.

(D) *Violation.* Each day any violation of this section is continued after written notice of such violation by the Sheriff or the Fire Chief, or their authorized agent, shall be deemed a separate and additional violation.

(2005 Code, § 10.62) Penalty, see § 93.99

FIRE PREVENTION

§ 93.20 MINNESOTA UNIFORM FIRE CODE.

(A) *Adoption.* The Minnesota Uniform Fire Code, as adopted pursuant to M.S. § 299F.011, is hereby adopted as the Fire Code for the city for the purpose of prescribing regulations governing conditions hazardous to life or property from fire, hazardous materials, or explosion. The provisions of the Minnesota Uniform Fire Code, except as modified or amended by this section, are hereby adopted by reference and made a part of this section as set forth herein.

(B) *Enforcement.*

(1) The Chief of the Fire Department service or the Chief's representatives are authorized to administer and enforce the provisions of this section.

(2) 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 section.

(C) *Definitions.* Whenever the following terms are used in the Minnesota Uniform Fire Code, they shall mean as follows.

JURISDICTION. The City of Pipestone.

THIS CODE. The code adopted pursuant to this section.

(D) *Establishment of limits of districts in which certain fire hazards are to be restricted.*

(1) *Storage of flammable or combustible liquids in outside aboveground tanks is prohibited.* The limits referred to in the Minnesota Uniform Fire Code in which storage of flammable or combustible liquids in outside aboveground tanks is restricted, are hereby established as follows: may continue in the Agriculture District; provided, however, that such installation shall not be expanded nor shall new installations for such purpose be permitted without a special permit from the City Council. Prior to issuance of any such permit, an application therefor shall be investigated by the Sheriff and the Chief of the Fire Department, and a hearing held thereon before the City Council.

(2) *Storage of explosives and blasting agents is to be prohibited.* The limits referred to in the Minnesota Uniform Fire Code, in which storage of explosives and blasting agents is prohibited, are

hereby established as follows: may continue in the Agriculture District; provided, however, that such installation shall not be expanded nor shall new installations for such purpose be permitted without a special permit from the City Council. Prior to issuance of any such permit, an application therefor shall be investigated by the Sheriff and the Chief of the Fire Department, and a hearing held thereon before the City Council.

(2005 Code, § 10.40) Penalty, see § 93.99

§ 93.21 STATE STATUTES ADOPTED.

The provisions of M.S. Chapter 116.01 et seq. are hereby adopted by reference as though set forth verbatim herein. It is unlawful to violate a provision of this section or of M.S. Chapter 116.01 et seq., hereby adopted by reference.

(2005 Code, § 10.42) Penalty, see § 93.99

§ 93.22 FIRE MARSHAL.

The Fire Chief shall designate a Fire Marshal with approval of the City Council.

(2005 Code, § 10.42)

§ 93.23 OPEN BURNING.

(A) *Violation.* It is unlawful for any person to burn or permit the burning of any grass, weeds, leaves, rubbish, or other substance upon premises owned or occupied by the person, except as otherwise provided by the city code.

(B) *Exceptions.* The following open burning shall be excepted from the regulations of this section:

(1) Fires in barbecue grills or other authorized containers used solely for the preparation of food. In any structure containing three or more dwelling units, it is unlawful for any person to kindle, maintain, or cause to be kindled or maintained any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of said structure, or to store or use any fuel, barbecue, torch, or other similar heating or lighting chemicals or devices in the locations designated above. These prohibitions do not apply to electric or gas-fired barbecue grills which are permanently mounted, wired, or plumbed to the building's gas or electrical system and maintain a minimum clearance of 18 inches on all sides (unless listed for lesser clearances by the manufacturer) when approved by the Fire Warden;

(2) Fires set for the instruction and training of public and industrial firefighting personnel when weather conditions are such that resultant smoke will be carried away from the neighboring residences or other affected property owners or public roadways, and that such burning will not constitute a fire, health, or traffic hazard, and a special permit has been issued by the Fire Warden;

(3) Fires set for the elimination of hazards which cannot be abated by any other practical means and have been issued a special permit by the Fire Warden; and

(4) **RECREATIONAL FIRES**, defined as the burning of materials other than rubbish where fuel being burned is not contained in an incinerator, outdoor fireplace, or barbecue pit and with a total fuel area of three feet or less in diameter and two feet in height. Recreational fires are permitted under the following conditions: a 50-foot clearance from any structure or combustible material is maintained; buckets, shovels, or garden hoses are readily available; and a special permit is issued by the Fire Marshal or duly authorized agent. It is unlawful to allow campfires except in pits conforming to the specifics above located in designated camp grounds.

(2005 Code, § 10.42) Penalty, see § 93.99

§ 93.24 SPECIAL PERMITS.

Special permits shall be issued by the Sheriff's Department based upon the following:

- (A) Written application;
- (B) Evidence of need;
- (C) Evidence of adequate precaution for public protection and safety;
- (D) Specification of location;
- (E) Specification of materials to be consumed;
- (F) Limitation to day(s) with wind levels below ten mph;
- (G) Written permission of the owner, lessee, or agent of the owner or lessee of the land;

(H) Agreement that the permittee shall keep the permit on his or her person at all times and shall produce the permit for inspection when requested to do so by a forest officer, Fire Marshal/Fire Chief, conservation officer, or other peace officer; and

(I) The permittee shall remain with the fire at all times and before leaving the site completely extinguish the fire.

(2005 Code, § 10.42)

§ 93.25 REVOCATION OF SPECIAL PERMITS.

The Sheriff's Department shall revoke permits issued under this section upon finding that:

- (A) The permit is being used by any person other than the person to whom it was issued;

(B) The conditions or limitations set forth in said permit have been violated;

(C) Violations set forth in any written notice served upon a permittee by the Fire Marshal/Fire Chief have not been corrected within the time required by the notice; or

(D) The permit is being used for any premises or location other than that for which it was issued.
(2005 Code, § 10.42)

§ 93.26 REPORTING FIRES.

It is unlawful for the occupant of any property upon which any unauthorized fire is burning, whether the fire was started by the occupant or otherwise, to fail to promptly report the fire to the nearest forestry office, fire department, or other proper authority. The occupant of the premises shall be deemed prima facie guilty of negligence if the unreported fire spreads from the property or causes damage, loss, or injury to another person, that person's property, or the state.
(2005 Code, § 10.42) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state 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.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either 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.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 10.99)

(B) (1) Any person, firm, or corporation who violates any provision of § 93.20 for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty

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which may be imposed for any crime which is a misdemeanor under this code, including state 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.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either 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.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 10.40)

CHAPTER 94: FAIR HOUSING

Section

- 94.01 Declaration of policy
- 94.02 Definitions
- 94.03 Real property
- 94.04 Public accommodations
- 94.05 Public services

- 94.99 Penalty

§ 94.01 DECLARATION OF POLICY.

Racial, marital status, status with regard to public assistance, disability, sex, and religious discrimination in housing, public accommodations, and public services adversely affects the health, welfare, peace, and safety of the community. Persons subject to such discrimination suffer depressed living conditions, poverty, and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced, and creating 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 housing, public accommodations, and public services without regard to their race, creed, color, national origin, marital status, status with regard to public assistance, disability, sex, or ancestry and strictly in accord with their individual merits as human beings.
(2005 Code, § 10.63)

§ 94.02 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 habilitate, rehabilitate, or accommodate that person.

DISCRIMINATE or **DISCRIMINATING.** Includes segregate or separate.

MARITAL STATUS. The standing, state, or condition of one as a single or married person.

PERSON. Includes individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, receivers, political subdivisions, boards, commissions, and their officers and agents.

PUBLIC ACCOMMODATIONS. Includes every business, accommodation, refreshment, entertainment, recreation, or transportation facility, whether licensed or not, whose goals, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

STATUS WITH REGARD TO PUBLIC ASSISTANCE. The condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.
(2005 Code, § 10.63)

§ 94.03 REAL PROPERTY.

(A) It is unlawful discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent, or lease any real property, or any agent of any of these:

(a) To refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability, or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, or disability;

(b) To discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability in the terms, conditions, or privileges of the sale, rental, or lease of any real property or in the furnishing of facilities or services in connection therewith; or

(c) In any transaction involving real property, to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability or any intent to make any such limitation, specification, or discrimination.

(2) For a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any real property, or any agent or employee thereof:

(a) To discriminate against any person or group of persons because of race, color, creed, national origin, sex, marital status, religion, status with regard to public assistance, or disability of such person or group of persons or of the prospective occupants or tenants of such real property 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;

(b) To use any form of application for such financial assistance or make any record of inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, religion, creed, national origin, sex, marital status, status with regard to public assistance, or disability or any intent to make any such limitation, specification, or discrimination; or

(c) To discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban or rural area or any part thereof solely because of the 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.

(3) For any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which such person, his or her firm, or any of its members may benefit financially to represent that a change has occurred or will or may occur in the composition with respect to race, religion, creed, color, sex, marital status, status with regard to public assistance, or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including, but not limited to, the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

(B) 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 such 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 of sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of such lease.

(2005 Code, § 10.63) Penalty, see § 93.99

§ 94.04 PUBLIC ACCOMMODATIONS.

It is an unlawful discriminatory practice to deny any person the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations because of race, religion, color, creed, national origin, sex, or status with regard to public assistance or disability. Nothing in this section shall be construed to require any person owning or operating public accommodations to modify 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 such lease, agreement, or contract.

(2005 Code, § 10.63) Penalty, see § 93.99

§ 94.05 PUBLIC SERVICES.

It is an unlawful discriminatory practice to discriminate against any person in the access to, admission to, full utilization of, or benefit from any public service because of race, color, creed, religion, national origin, sex, or status with regard to public assistance, or disability.

(2005 Code, § 10.63) Penalty, see § 93.99

§ 94.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this chapter, including state 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) Any person, firm, or corporation who violates any provision of this chapter, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(C) In either 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.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this chapter shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 10.99)

