

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ANIMALS

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### ***DOG AND CAT REGULATIONS; LICENSES***

#### **90.01 RUNNING AT LARGE.**

(A) It shall be unlawful for the dog or cat of any person who owns, harbors or keeps a dog or cat, to run at large.

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(B) A person, who owns, harbors or keeps a dog or cat which runs at large shall be guilty of a misdemeanor.

(C) Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading ADogs or Cats Prohibited@.

Penalty, see ' 10.99

**' 90.02 LICENSE REQUIRED.**

It is unlawful for any person, or other possessor of a dog or cat over four months of age to fail to obtain a proper city license therefor.

(1994 Code, ' 10.21.2)

**' 90.03 APPLICATION.**

Application for a dog license shall be upon a form supplied by the city containing a certificate by a veterinarian, duly licensed to practice veterinary medicine within the state, which certificate shall state that the dog for which application for a license is made, has been innoculated against rabies for at least the period for which a license is applied.

(1994 Code, ' 10.21.3)

**' 90.04 LICENSE PERIOD.**

All dog and cat licenses shall expire on December 31 of each year.

(1994 Code, ' 10.21.4)

**' 90.05 FEES.**

(A) All fees for the licensing and impounding of dogs and cats shall be fixed and determined by the Council, adopted by resolution and uniformly enforced.

(B) The fees may from time to time be amended by the Council by resolution, and the resolution shall be published in the official newspaper at least once each year.

(C) A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours; provided, however, that at the time of initial application for a spayed female license, the applicant shall file with the City Clerk a certificate of a licensed veterinarian stating that the female has been spayed.

(1994 Code, ' 10.21.5)

' **90.06 TAG REQUIRED.**

(A) All licensed dogs and cats shall wear a collar and have a tag firmly affixed thereto evidencing the license for the current license period.

(B) A duplicate for a lost tag may be issued by the City Clerk upon presentation of the receipt showing the payment of the license fee and upon payment of the fee as set by resolution of the Council for issuance of the duplicate.

(C) Dog and cat tags shall not be transferable, and no refund shall be made on any dog or cat license fee because of leaving the city or death of the dog or cat before expiration of the license.

(1994 Code, ' 10.21.6)

' **90.07 UNLAWFUL ACTS.**

(A) It is unlawful for any person to wrongfully remove or steal the collar from any dog or cat.

(B) It is unlawful for any person to destroy or attempt to destroy any dog or cat by means of poison or any other like substance.

(1994 Code, ' 10.21.7) Penalty, see ' 10.99

' **90.08 ANIMAL POUND.**

(A) Any dog or cat found in the city without a tag, or running at large, shall be placed in the animal pound, and an accurate record of the time of the placement shall be kept on each dog or cat.

(B) Every dog or cat so placed in the animal pound shall be held for redemption by the owner for a period of not less than five regular business days.

(C) A **REGULAR BUSINESS DAY** is one during which the pound is open for business to the public for at least four hours between 8:00 a.m. and 7:00 p.m.

(D) Impoundment records shall be preserved for a minimum of six months and shall show: the description of the animal by specie, breed, sex, approximate age and other distinguishing traits; the location at which the animal was seized; the date of seizure; the name and address of the person from whom any animal four months of age or over was received; and the name and address of the person to whom any animal four months of age or over was transferred.

(E) If unclaimed, the dog or cat shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of M.S. ' 35.71, as it may be amended from time to time; provided, however, that if a tag affixed to the dog or cat, or a statement by

the dog or cat=s owner after seizure specifies that the dog or cat should not be used for research, the dog or cat shall not be made available to any like institution but may be destroyed after the expiration of the five-day period.

(1994 Code, ' 10.21.8)

**' 90.09 NOTICE OF IMPOUNDING AND RELEASE FROM ANIMAL POUND.**

(A) Upon the impounding of any dog or cat, the owner shall be notified, or if the owner of the dog or cat is unknown, written notice shall be posted for five days at the City Hall describing the dog or cat and the place and time of taking.

(B) Dogs and cats shall be released to their owners, or persons previously in possession of them, upon the purchase of a license, if one has not already been purchased, and payment of the impounding fee as provided by resolution of the Council.

(1994 Code, ' 10.21.9)

**' 90.10 DISTURBING THE PEACE.**

(A) *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 five minutes with less than one minute of interruption. The barking must also be audible off of the owner=s or caretaker=s premises.

(B) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section, unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal.

Penalty, see ' 10.99

**' 90.11 IMMOBILIZATION OF DOGS.**

For the purpose of enforcement of this section, any peace officer, dog catcher or other person assisting a peace officer or dog catcher may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a dog.

(1994 Code, ' 10.21.11)

**' 90.12 DANGEROUS DOGS.**

(A) *Adoption by reference.* Except as otherwise provided in this section, the regulatory and procedural provisions of M.S. ' ' 347.50 to 347.565, as they may be amended from time to time (commonly referred to as the Adangerous dog regulations@), are adopted by reference.

(B) *Definitions.* Definitions in this section shall have the following meanings:

(1) ***DANGEROUS DOG.*** A dog that:

(a) Has when unprovoked, inflicted substantial bodily harm on a human being on public or private property;

(b) Has killed a domestic animal when unprovoked while off the owner's property;

(c) Has attacked one or more persons on two or more occasions; or

(d) Has been found to be potentially dangerous and after the owner has notice of the same, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

(2) ***DOG.*** Both the male and female of the canine species, commonly accepted as domesticated household pets.

(3) ***GREAT BODILY HARM.*** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

(4) ***OWNER.*** Any person or persons, firm, corporation, organization, department, or association owning, possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

(5) ***MAINTENANCE COSTS.*** Any costs incurred as a result of seizing an animal for impoundment, including, but not limited to, the capturing, impounding, keeping, treating, examining, securing, confining, feeding, destroying, boarding or maintaining seized animals, whether these services are provided by the city or the pound.

(6) ***POTENTIALLY DANGEROUS DOG.*** A dog that:

(a) Has when unprovoked, inflicted a bite on a human or domestic animal on public or private property;

(b) Has when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the owner's property, in an apparent attitude of attack; or

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(c) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

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

(a) A minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self-closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.

(8) **SUBSTANTIAL BODILY HARM.** Bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ or that causes a fracture of any bodily member.

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

(C) *Declaration of dangerous or potentially dangerous dog.*

(1) A police officer, community service officer, animal control officer or other authorized city employee may declare a dog to be dangerous or potentially dangerous when the officer has probable cause to believe that a dog is dangerous or potentially dangerous. The following factors will be considered in determining a dangerous or potentially dangerous dog:

(a) Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog's offspring within the immediate vicinity of the dog from an unjustified attack or assault.

(b) The size and strength of the dog, including jaw strength, and the animal's propensity to bite humans or other domestic animals.

(c) Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained or encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia or drugs used to prepare the dogs to fight with other animals.

(2) Beginning six months after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided, the city may rescind the designation.

(3) *Exceptions.*

(a) The provisions of this section do not apply to dogs used by law enforcement.

(b) Dogs may not be declared dangerous or potentially dangerous if the threat, injury, or danger was sustained by a person who was:

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;

2. Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing or assaulting the dog; or

3. Committing or attempting to commit a crime.

(D) *License required.* The owner must annually license dangerous and potentially dangerous dogs with the city and must license a newly declared dangerous or potentially dangerous dog within 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal that may be requested, the owner must comply with the requirements of M.S. ' 347.52(a) and (c), as they may be amended from time to time, regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration.

(1) *Process for dangerous dogs.* The city will issue a license to the owner of a dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) Written proof that there is a surety bond by a surety company authorized to conduct business in Minnesota in the sum of at least \$300,000, payable to any person injured by a dangerous dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in the state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. The surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the city is notified in writing by the surety company or the insurance company at least ten days prior to the cancellation;

(c) The owner has paid the annual license fee for dangerous dogs as may be established.

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(d) The owner has had a microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense; and

(e) The owner provides proof that the dog has been sterilized. If the owner does not sterilize the dog within 30 days, the city may seize the dog and sterilize it at the owner's expense.

(2) *Process for potentially dangerous dogs.* The city will issue a license to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) The owner has paid the annual license fee;

(c) The owner has had a microchip identification implanted in the potentially dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense.

(3) *Inspection.* A pre-license inspection of the premises to insure compliance with the city code is required. If the city issues a license to the owner of a dangerous or potentially dangerous dog, the city shall be allowed at any reasonable time to inspect the dog, the proper enclosure and all places where the animal is kept.

(4) *Warning symbol.* The owner of a dangerous dog licensed under this section must post a sign with the uniform dangerous dog warning symbol on the property in order to inform children that there is a dangerous dog on the property. The sign will be provided by the city upon issuance of the license.

(5) *Tags.* A dangerous dog licensed under this section must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the city upon issuance of the license.

(6) *License fee.* The city will charge the owner an annual license fee for a dangerous or potentially dangerous dog as may be established.

(E) *Properly restrained in proper enclosure or outside of proper enclosure.* While on the owner's property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(F) *Notification requirements to city.*

(1) *Relocation or death.* The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Clerk in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside of the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.

(2) *Renter's obligations.* A person who owns or possesses a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potentially dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.

(3) *Transfer of ownership into the city.* No dog that has been previously determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned or harbored in the city unless the dog's owner complies with the requirements of this section prior to bringing the dog into the city. Dogs in violation of this division are subject to impoundment and destruction.

(G) *Seizure.* Animal control may immediately seize any dangerous or potentially dangerous dog if:

(1) After 14 days after the owner has notice that the dog is declared dangerous or potentially dangerous, the dog is not validly licensed and no appeal has been filed;

(2) After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required or the required insurance is cancelled;

(3) The dog is not maintained in a proper enclosure;

(4) The dog is outside the proper enclosure and not under proper restraint, as required by division (E) above;

(5) After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by division (D)(1)(e) above;

(6) The dog's microchip has been removed.

(H) *Reclamation.* A dog seized under division (G) above may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to animal control that the requirements of this section have been met. A dog not reclaimed under this division within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of

the date seized.

(I) *Subsequent offenses: seizure.* If a person has been convicted of violating a provision of this section, and the person is charged with a subsequent violation relating to the same dog, the dog may be seized. If the owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the owner pay the maintenance costs. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of, used for research or destroyed.

(J) *Notice, hearings.*

(1) *Notice.* After a dog has been declared dangerous or potentially dangerous or has been seized for destruction, the city shall give notice by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

(a) A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place, and circumstances under which the dangerous dog was declared; and the telephone number and contact person where the dog is kept;

(b) A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing;

(c) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of M.S. ' 347.52(a) and (c), as they may be amended from time to time, regarding proper enclosures and notification to the city upon transfer or death of the dog, until a time as the hearing officer issues an opinion;

(d) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of M.S. ' 347.51, 347.515 and 347.52, as they may be amended from time to time;

(e) A form to request a hearing; and

(f) A statement that if the dog has been seized, all maintenance costs of the care, keeping, and disposition of the dog pending the outcome of the hearing are the responsibility of the owner, unless a court or hearing officer finds that the seizure or impoundment was not reasonably justified by law.

(2) *Right to hearing.*

(a) After a dog has been declared dangerous, potentially dangerous or has been seized for destruction, the owner may appeal in writing to the city within 14 days after notice of the declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing. The owner must pay a \$100 fee for an appeal hearing.

(b) The appeal hearing will be held within 14 days of the request. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(c) If the declaration or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000, as well as all maintenance costs, will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision shall be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the city. The decision of the hearing officer is final.

(K) *Destruction of certain dogs.* The Police Chief and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to division (J) above and upon a finding that:

(1) The dog has habitually destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;

(2) The dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired, and the owner has failed to comply with the provisions of this section;

(3) It is determined that the dog is infected with rabies;

(4) The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;

(5) The dog inflicted multiple bites on a human on public or private property without provocation;

(6) The dog bit multiple human victims on public or private property in the same attack without provocation;

(7) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or

(8) The dog poses a danger to the public's health, safety or welfare. In determining whether the dog poses a danger to the public's health, safety or welfare, the following factors may be considered:

(a) The dog weighs more than 20 pounds;

(b) The strength of the dog, including jaw strength;

(c) The dog's tolerance for pain;

(d) The dog's tendency to refuse to terminate an attack;

(e) The dog's propensity to bite humans or other domestic animals;

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- (f) The dog's potential for unpredictable behavior;
- (g) The dog's aggressiveness;
- (h) The likelihood that a bite by the dog will result in serious injury.

(L) *Concealing of dogs.* No person may harbor, hide or conceal a dog that the city has the authority to seize or that has been ordered into custody for destruction or other proper disposition.

(M) *Dog ownership prohibited.*

(1) Except as provided below, a person shall not own a dog if the person has been:

(a) Convicted of a third or subsequent violation of divisions (D), (E) or (F) above or similar ordinance in another jurisdiction, or M.S. ' ' 347.51, 347.515 or 347.52, as they may be amended from time to time;

(b) Convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under M.S. ' 609.205(4), as it may be amended from time to time; or

(c) Convicted of gross misdemeanor harm caused by a dog under M.S. ' 609.226(1), as it may be amended from time to time.

(2) Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation, may be impounded until due process is completed, pursuant to division (J) above.

(3) If any member of a household is prohibited from owning a dog in division (M)(1) or (2) above, unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.

(N) *Dog ownership prohibition review.* Beginning three years after a conviction under division (M)(1) above that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Police Chief that the city review the prohibition. The city may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the city rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

(O) *Penalties.*

(1) Unless stated otherwise, any person who violates a provision of this section is guilty of a misdemeanor.

(2) Any person who is convicted of a second or subsequent violation of any provision of divisions (D), (E) or (F) above is guilty of a gross misdemeanor.

(3) Any person who violates division (M) above, whether an owner or household member, is guilty of a gross misdemeanor.

***ANIMALS AND FOWL; KEEPING, TRANSPORTING, TREATMENT, HOUSING***

**' 90.25 DEFINITIONS.**

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

***ANIMALS.*** Includes farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, gerbils, hamsters and caged household birds.

***FARM ANIMALS.*** Cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens and honey bees.  
(1994 Code, ' 10.22.1)

**' 90.26 KEEPING.**

It is unlawful for any person to keep or harbor any animal, not in transit, except: farm animals kept in that portion of the city zoned for agricultural purposes; animals kept as part of a show licensed under the city code; animals kept in a laboratory for scientific or experimental purposes; or animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.  
(1994 Code, ' 10.22.2) Penalty, see ' 10.99

**' 90.27 ANIMALS IN TRANSIT.**

It is unlawful for any person to transport animals unless they are: confined within a vehicle, cage or other means of conveyance; farm animals being transported in a portion of the city zoned for agricultural purposes; or restrained by means of bridles, halters, ropes or other means of individual restraint.  
(1994 Code, ' 10.22.3) Penalty, see ' 10.99

**' 90.28 TREATMENT.**

It is unlawful for any person to treat an animal in a cruel or inhumane manner.  
(1994 Code, ' 10.22.4) Penalty, see ' 10.99

**' 90.29 HOUSING.**

It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.  
(1994 Code, ' 10.22.5) Penalty, see ' 10.99

**' 90.30 TRESPASSES.**

It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission therefor from the owner.  
(1994 Code, ' 10.22.6) Penalty, see ' 10.99

**' 90.31 FEEDING ANIMALS.**

It is unlawful for any person/property owner to knowingly and purposefully feed any deer, pigeons or water fowl within the boundaries of the city.  
(Ord. 135, passed 6-10-2008) Penalty, see ' 10.99

**CHAPTER 91: ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY  
AND EXCESS PROPERTY**

Section

- 91.01 Abandoning a motor vehicle
- 91.02 Disposal of abandoned motor vehicles
- 91.03 Disposal of unclaimed property
- 91.04 Disposal of excess property
- 91.05 Persons who may not purchase; exception

**' 91.01 ABANDONING A MOTOR VEHICLE.**

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of the property. For the purpose of this section, a **MOTOR VEHICLE** is defined as in the Highway Traffic Regulation Act, being M.S. ' ' 169.011 et seq. and an **ABANDONED MOTOR VEHICLE** is defined as in M.S. Chapter 168B, as it may be amended from time to time, relating to disposal of abandoned motor vehicles.

(1994 Code, ' 10.46) Penalty, see ' 10.99

**' 91.02 DISPOSAL OF ABANDONED MOTOR VEHICLES.**

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

**ABANDONED MOTOR VEHICLE.** Motor vehicle as defined in M.S. Chapter 169, as it may be amended from time to time, which has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of the property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the city. A classic car or pioneer car, as defined in M.S. Chapter 168, as it may be amended from time to time, shall not be considered an **ABANDONED MOTOR VEHICLE** within the meaning of this section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the city code, shall not be considered **ABANDONED MOTOR VEHICLES** within the meaning of this section.

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***VITAL COMPONENT PARTS.*** The parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

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

(C) *Immediate sale.* When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in the state or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation or title provision of this division.

(D) *Notice.*

(1) When an abandoned motor vehicle does not fall within the provisions of division (C) above, the city shall give notice of the taking within ten days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if that information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under division (E) below, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to division (F) below.

(2) The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

(E) *Right to reclaim.*

(1) The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim the vehicle from the city upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by division (D) above.

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

(F) *Public sale.*

(1) An abandoned motor vehicle and contents taken into custody and not reclaimed under this division (F) shall be sold to the highest bidder at public auction or sale, following one published notice published at least seven days prior to the auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and

clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(2) From the proceeds of the sale of an abandoned motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this division. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the General Fund of the city.

(G) *Disposal of vehicles not sold.* Where no bid has been received for an abandoned motor vehicle, the city may dispose of it in accordance with division (H) below.

(H) *Contracts and disposal.*

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

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

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

(1994 Code, ' 2.16.1)

### **' 91.03 DISPOSAL OF UNCLAIMED PROPERTY.**

(A) *Definition.* The term **ABANDONED PROPERTY** means tangible or intangible property that has lawfully come into the possession of the city in the course of municipal operations, remains unclaimed by the owner and has been in the possession of the city for at least 60 days and has been declared such by a resolution of the Council.

(B) *Preliminary notice.* If the City Clerk knows the identity and whereabouts of the owner, he or she shall serve written notice upon him or her at least 30 days prior to a declaration of abandonment by the Council. If the city acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk notice shall also be served upon him or her. The notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of 30 days from the date of the notice.

(C) *Notice and sale.* Upon adoption of a resolution declaring certain property to be abandoned

property, the City Clerk shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of the property. The text of the notice shall also state the time, place and manner of sale of all the property, except cash and negotiables. The notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

(D) *Fund and claims thereon.* All proceeds from the sale shall be paid into the General Fund of the city and expenses thereof paid therefrom. The former owner, if he or she makes claim within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. The payment shall be also made from the General Fund.  
(1994 Code, ' 2.16.2)

#### ' 91.04 DISPOSAL OF EXCESS PROPERTY.

(A) *Declaration of surplus and authorizing sale of property.* The City Clerk may, from time to time, recommend to the Council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the Council, the property shall be declared surplus, the value estimated and the City Clerk authorized to dispose of the property in the manner stated herein.

(B) *Surplus property with a total estimated value of less than \$100.* The City Clerk may sell surplus property with a total value of less than \$500 through negotiated sale.

(C) *Surplus property with a total estimated value between \$500 and \$1,000.* The City Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$500 to \$1,000. Notice of the public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the City Clerk's option. The sale shall be by auction.

(D) *Surplus property with a total estimated value over \$1,000.* The City Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$1,000. Notice of the public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. The sale shall be to the person submitting the highest bid.

(E) *Receipt from sales of surplus property.* All receipts from sales of surplus property under this section shall be placed in the General Fund.  
(1994 Code, ' 2.16.3)

**' 91.05 PERSONS WHO MAY NOT PURCHASE; EXCEPTION.**

(A) No employee of the city who is a member of the administrative staff, department head, a member of the Council or an advisor serving the city in a professional capacity, may be a purchaser of property under this section. Other city employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week=s published or posted notice of sale is given.

(B) It is unlawful for any person to be a purchaser of property under this section if the purchase is prohibited by the terms of this section.  
(1994 Code, ' 2.16.4) Penalty, see ' 10.99



## CHAPTER 92: DEPOSIT OF LITTER

### Section

- 92.01 Definitions
- 92.02 Litter in public places
- 92.03 Litter on gutters and sidewalks prohibited
- 92.04 Litter from vehicles
- 92.05 Litter in parks, lakes and streams
- 92.06 Litter on private property
- 92.07 Exceptions in proper zones
- 92.08 Clearing of litter from private property by city

### 92.01 DEFINITIONS.

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

**AUTHORIZED PRIVATE RECEPTACLE.** A litter storage and collection receptacle as required and authorized by provisions of the city code and regulations as to the city refuse collection system.

**GARBAGE.** Putrescible animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

**LITTER.** Garbage, refuse and rubbish as defined herein, and all other waste material which, if thrown, deposited, maintained or stored as herein prohibited tends to create a danger to public health, safety and welfare.

**PARK.** A park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

**PUBLIC PLACE.** Any and all streets or other public ways and any and all public parks, ravines, spaces, grounds and buildings.

**REFUSE.** All putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, unlicensed or inoperative vehicles and solid commercial and industrial wastes.

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**RUBBISH.** Nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, scrap metal, scrap lumber, used vehicle parts and similar materials.

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon on a highway, including, but not limited to, devices such as automobiles, trucks, bicycles, motorcycles, snowmobiles, trailers of any kind, and similar forms of conveyance.  
(1994 Code, ' 10.01.1)

**' 92.02 LITTER IN PUBLIC PLACES.**

(A) It is unlawful for any person to throw or deposit litter in or upon any street or other public place within the city except in public receptacles, in authorized private receptacles for collection or in official city landfills.

(B) Persons placing litter in authorized private receptacles shall do so in a manner so as to prevent it from being carried or deposited by the elements upon any street or other public place or upon private property.  
(1994 Code, ' 10.01.2) Penalty, see ' 10.99

**' 92.03 LITTER ON GUTTERS AND SIDEWALKS PROHIBITED.**

(A) It is unlawful for any person to sweep into or deposit in any gutter, street or other public place within the city any litter from any building or lot or from any public or private sidewalk or driveway.

(B) Persons owning or occupying property, including commercial or industrial property, shall keep the sidewalk or boulevard in front of their premises free of litter at all times.

(C) This section shall not prohibit the deposit of leaves on boulevards each fall for authorized pickup by the city facilities.  
(1994 Code, ' 10.01.3) Penalty, see ' 10.99

**' 92.04 LITTER FROM VEHICLES.**

(A) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the city, or upon private property.

(B) No person shall drive or move any truck or other vehicle within the city unless the vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, or other public place, or upon private property; nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(1994 Code, ' 10.01.4) Penalty, see ' 10.99

**' 92.05 LITTER IN PARKS, LAKES AND STREAMS.**

(A) It is unlawful for any person to throw or deposit litter in any park, lake or stream within the city except in public receptacles and in a manner so that the litter will be prevented from being carried or deposited by the elements upon any part of park, lake or stream or upon any street or other public place.

(B) Where public receptacles are not provided, all the litter shall be carried away from the park, lake or stream by the person responsible for its presence and properly disposed of elsewhere.

(1994 Code, ' 10.01.5) Penalty, see ' 10.99

**' 92.06 LITTER ON PRIVATE PROPERTY.**

It is unlawful for any person to throw, deposit, maintain or store outside any litter on any private property within the city, whether owned by the person or not, and the owner and the person in control of any like private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(1994 Code, ' 10.01.6) Penalty, see ' 10.99

**' 92.07 EXCEPTIONS IN PROPER ZONES.**

This chapter shall not prohibit the lawful keeping of vehicles defined as Arefuse@ herein on private property under the following circumstances:

(A) On property duly licensed as a junkyard in an appropriate zone under the zoning regulations of the city code;

(B) When stored inside buildings, provided the building and land usage complies with all applicable codes and provisions of the city code regulating the special hazards and usage thereof; or

(C) Temporary outside storage, not exceeding 60 days, in appropriate industrial zones, under the zoning regulations of the city code, while awaiting repair work thereon.

(1994 Code, ' 10.01.7)

**' 92.08 CLEARING OF LITTER FROM PRIVATE PROPERTY BY CITY.**

(A) *Notice.* The City Clerk, or his or her duly authorized agent, is hereby authorized and empowered to notify the owner of any private property within the city, or the agent of the owner, to properly dispose of litter located on the owner=s property which is prohibited by this section. The occupier of any property shall be deemed agent of the property owner for purposes of this section. Notice shall be by registered mail or personal service in the same manner as civil process in district court, and if by mail, shall be addressed to the owner or his or her agent at his or her last known address. If sent by mail, and returned because of inability to make delivery thereof, the City Clerk shall make a reasonable attempt to deliver the same by personal service. The city shall not be required to furnish notice by personal service outside the state.

(B) *City removal.* Upon failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter as prohibited by this section within 30 days after receipt of written notice cited above, or within 30 days after the date the same is returned to the city because of inability to make delivery or personal service thereof, the City Clerk or his or her duly authorized agent is hereby authorized and empowered to order the removal and disposal of the litter and pay therefor with city funds.

(C) *Right to hearing.* At any time prior to city removal of litter from private property, the owner, or his or her agent, may submit a written request for a hearing before the Council to show cause why the litter should not be removed from the property as required by this chapter. The Council shall hear all relevant testimony, receive all evidence bearing upon the question, and thereafter make findings for or against the proposed removal. If owner prevails, all proceedings hereunder arising from the incident shall terminate and be dismissed by the city. If a violation of this section is found by the Council, the removal shall be ordered immediately pursuant to division (B) above.

(D) *Cost certified to taxes.* When the city has effected the removal of the litter, or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 8% per annum from the date of the completion of the work, if not paid by the owner prior to 30 days following the removal, shall be charged as a lien upon the real estate affected and the same certified by the City Clerk to the County Auditor as a special assessment for collection with regular municipal taxes in the year following the certification. The assessment shall constitute a lien against the real estate and shall be collected in the manner provided by law for the collection of special assessments. The certified assessment shall constitute prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily completed.

(1994 Code, ' 10.01.8)

## CHAPTER 93: TREES

Section

### *Prevention and Control of Dutch Elm Disease*

- 93.01 Declaration of policy
- 93.02 Dutch Elm disease program
- 93.03 Nuisance declared
- 93.04 Abatement
- 93.05 Inspection and investigation
- 93.06 Abatement of Dutch Elm disease nuisance
- 93.07 Procedure for removal of infested trees and wood
- 93.08 Spraying elm trees
- 93.09 Transporting elm wood prohibited
- 93.10 Interference prohibited
- 93.11 Position of City Forester
- 93.12 Duties of City Forester

### ***PREVENTION AND CONTROL OF DUTCH ELM DISEASE***

#### **' 93.01 DECLARATION OF POLICY.**

(A) The city has determined that the health of the elm trees is threatened by a fatal disease known as Dutch Elm disease. It has further determined that the loss of elm trees growing upon public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public.

(B) It is declared to be the intention of the city to control and prevent the spread of this disease and this subchapter is intended for that purpose.  
(1994 Code, ' 10.70.1)

#### **' 93.02 DUTCH ELM DISEASE PROGRAM.**

It is the intention of the city to conduct a program of plant pest control pursuant to authority granted by M.S. ' 18G.13, as it may be amended from time to time. This program is directed specifically at the

control and elimination of Dutch Elm disease fungus and elm bark beetles and is undertaken at the recommendation of the Commissioner of Agriculture. The City Forester, hereinafter provided for shall act as coordinator between the Commissioner of Agriculture and the city in the conduct of this program. (1994 Code, ' 10.70.2)

**' 93.03 NUISANCE DECLARED.**

The following things are public nuisances whenever they are found within the city:

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

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

(1994 Code, ' 10.70.3)

**' 93.04 ABATEMENT.**

It is unlawful for any person to permit any public nuisance as herein defined to remain on any premises owned, leased, occupied or controlled by him or her. The nuisance may be abated in the manner prescribed by this section.

(1994 Code, ' 10.70.4) Penalty, see ' 10.99

**' 93.05 INSPECTION AND INVESTIGATION.**

(A) The City Forester, his or her agents or employees, shall inspect all premises and places within the city as often as practicable to determine whether any conditions described herein exist thereon. They shall investigate and report incidents of infestation by Dutch Elm fungus or elm bark beetles to the Council.

(B) The City Forester, his or her agents or employees, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them hereunder.

(C) The City Forester, his or her agents or employees, upon finding conditions indicating Dutch Elm infestation immediately shall take and send appropriate specimens or samples to the Commissioner of Agriculture (Bureau of Plant Industry), state, for analysis, or take other steps to a diagnosis as may be recommended by the Commissioner of Agriculture. No action to remove infected trees nor wood shall be taken until positive diagnosis of the disease has been made.

(1994 Code, ' 10.70.5)

**' 93.06 ABATEMENT OF DUTCH ELM DISEASE NUISANCE.**

In abating the nuisances defined herein, the City Forester, his or her agents or employees, shall cause the infected tree or wood to be removed and burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and elm bark beetles. The abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the state. The city shall establish specifications for tree removal and disposal methods consistent therewith.

(1994 Code, ' 10.70.6)

**' 93.07 PROCEDURE FOR REMOVAL OF INFESTED TREES AND WOOD.**

(A) (1) Whenever the City Forester, his or her agents or employee finds with reasonable certainty that the infestation defined herein exists in any tree or wood in any public or private place in the city, he or she shall proceed as follows.

(a) If the City Forester, his or her agents or employees finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, 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, as it may be amended from time to time; or abating the nuisance as provided in division (B) below.

(b) If the City Forester, his or her agents or employees finds that danger of infestation of other elm trees is imminent, he or she shall notify the abutting property owners by certified mail that the nuisance will be abated within a specified time, not less than five days from the date of mailing of the notice. The City Forester shall immediately report that 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 City Forester finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he or she may proceed to abate the nuisance forthwith.

(2) He or she shall report that action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.

(B) Upon receipt of the City Forester=s report required by division (A)(1)(a) above, the Council shall by resolution order the nuisance abated. Before action is taken on the resolution the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed bases of assessment, if any, of costs. At the hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) The City Forester shall keep a record of the costs of abatements done under this section, and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(D) On or before September 1 of each year the City Clerk 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, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

(E) No damage shall be awarded the owner for destruction of any elm tree, elm wood or elm material or any part thereof pursuant to this section.  
(1994 Code, ' 10.70.7)

#### **' 93.08 SPRAYING ELM TREES.**

(A) Whenever the City Forester, his or her agents or employees, determines that any elm tree or elm wood within the city is infected with Dutch Elm fungus, he or she may spray or treat all nearby high value elm trees, with an effective elm bark beetle destroying concentrate or fungicide or both. Activities authorized by this section 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.

(B) The notice provisions of ' 93.07 apply to spraying and treatment operations conducted under this section.  
(1994 Code, ' 10.70.8)

#### **' 93.09 TRANSPORTING ELM WOOD PROHIBITED.**

It is unlawful for any person to transport within the city any bark-bearing elm wood without having obtained a permit from the City Forester. The City Forester shall grant permits only when the purpose of this section will be served thereby.  
(1994 Code, ' 10.70.9) Penalty, see ' 10.99

#### **' 93.10 INTERFERENCE PROHIBITED.**

It is unlawful for any person to prevent, delay or interfere with the City Forester or his or her agents while they are engaged in the performance of duties imposed by this section.  
(1994 Code, ' 10.70.10) Penalty, see ' 10.99

**' 93.11 POSITION OF CITY FORESTER.**

The position of City Forester is hereby created. The City Clerk or other city official or person as may be designated from time to time shall perform the duties of City Forester. The appointment to fill the position shall be made by resolution of the Council.

(1994 Code, ' 10.70.11)

**' 93.12 DUTIES OF CITY FORESTER.**

It is the duty of the City Forester to coordinate, under the direction and control of the Council, all activities of the city relating to the control and prevention of Dutch Elm disease. He or she shall recommend to the Council the details of a program for the control of Dutch Elm disease, and perform the duties incident to such a program adopted by the Council.

(1994 Code, ' 10.70.12)



## CHAPTER 94: NUISANCES; HEALTH; PUBLIC PROTECTION

### Section

#### *Nuisances Generally*

- 94.01 Public nuisance
- 94.02 Public nuisances affecting health
- 94.03 Public nuisances affecting morals and decency
- 94.04 Public nuisances affecting peace and safety
- 94.05 Nuisance parking and storage
- 94.06 Inoperable motor vehicles
- 94.07 Building maintenance and appearance
- 94.08 Duties of city officers
- 94.09 Abatement
- 94.10 Recovery of cost

#### *Public Health, Safety and Protection*

- 94.25 Adoption of Minnesota Uniform Fire Code
- 94.26 Grass and weeds on private property
- 94.27 Barbed wire fences
- 94.28 Mobile homes
- 94.29 Junk cars, household furnishings and appliances stored on public or private property
- 94.30 Storage of anhydrous ammonia
- 94.31 Climbing water tower
- 94.32 Consumption of beer or liquor on streets and public property
- 94.33 Consumption of beer, wine or liquor on private parking lots
- 94.34 Toilet installation required

### ***NUISANCES GENERALLY***

#### **94.01 PUBLIC NUISANCE.**

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

- (A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety,

health, morals, comfort or repose of any considerable number of members of the public;

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

(C) Is guilty of any other act or omission declared by law or ' ' 94.02, 94.03 or 94.04, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.  
Penalty, see ' 10.99

**' 94.02 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

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

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

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

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

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

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

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

(K) Any offensive trade or business as defined by statute not operating under local license; and

(L) All unnecessary and annoying vibrations.

Penalty, see ' 10.99

**' 94.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

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

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

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

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section *INTOXICATING LIQUOR* shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than 0.5% alcohol by volume; and

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

Penalty, see ' 10.99

**' 94.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

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

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

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;

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

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a

manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(V) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals and the like.* No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of

9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

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

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

(X) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel.  
Penalty, see ' 10.99

#### ' 94.05 NUISANCE PARKING AND STORAGE.

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

(B) *Unlawful parking and storage.*

(1) A person must not place, store or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store or allow the placement or storage of pipe, lumber, forms, steel, machinery or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

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

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

(b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.

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

Penalty, see ' 10.99

#### ' 94.06 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. ' 168B.011, Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Penalty, see ' 10.99

#### ' 94.07 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they: are unsightly; decrease adjoining landowners and occupants= enjoyment of their property and neighborhood; and adversely affect property values and neighborhood patterns.

**Chisholm - General Regulations**

(B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

(a) Any one wall or other flat surface; or

(b) All door and window moldings, eaves, gutters and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.

Penalty, see ' 10.99

**' 94.08 DUTIES OF CITY OFFICERS.**

For purposes of ' ' 94.08 and 94.09, the Police Department, or Sheriff or person designated by the City Council, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in ' 10.20.

**' 94.09 ABATEMENT.**

(A) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

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

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

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

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated may notify in writing the owner of record or occupant of the premises of that fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council.

Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(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, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

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

Penalty, see ' 10.99

#### ' 94.10 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a property not owned by that person shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(B) *Assessment.* After notice and hearing as provided in M.S. ' 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. ' 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification

to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see ' 10.99

***PUBLIC HEALTH, SAFETY AND PROTECTION***

**' 94.25 ADOPTION OF STATE UNIFORM FIRE CODE.**

The State Uniform Fire Code is hereby adopted as though set forth verbatim herein. Three copies of the code shall be marked @CITY OF CHISHOLM - OFFICIAL COPY@ and kept on file in the office of the City Clerk and open to inspection and use by the public.

(1994 Code, ' 10.71)

**' 94.26 GRASS AND WEEDS ON PRIVATE PROPERTY.**

(A) It is unlawful for any owner, occupant or agent of any lot or parcel of land in the city to allow any weeds or grass growing upon any lot or parcel of land to grow to a greater height than ten inches or to allow the weeds or grass to go to seed.

(B) If any such owner, occupant or agent fails to comply with this height limitation and after notice given by the City Clerk, has not within seven days of the notice complied, the city shall cause the weeds or grass to be cut and the expenses thus incurred shall be a lien upon the real estate. The City Clerk shall certify to the County Auditor, a statement of the amount of the cost incurred by the city. The amount together with interest shall be entered as a special assessment against the lot or parcel of land and be collected in the same manner as real estate taxes.

(1994 Code, ' 10.72) Penalty, see ' 10.99

**' 94.27 BARBED WIRE FENCES.**

It is unlawful for any person to erect or maintain a barbed wire fence upon his or her property, which fence abuts upon any street or within ten feet of his or her property line with an abutting property owner.

(1994 Code, ' 10.73) Penalty, see ' 10.99

**' 94.28 MOBILE HOMES.**

It is unlawful to park a mobile home upon private property, except in a licensed mobile home park.

(1994 Code, ' 10.74) Penalty, see ' 10.99

**' 94.29 JUNK CARS, HOUSEHOLD FURNISHINGS AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY.**

It is unlawful to park or store any unlicensed, unregistered or inoperable vehicle, household furnishings or appliances on public or private property in a Residence District, unless housed within a lawfully erected building in the Residence District, and any violation is hereby declared to be a nuisance. (1994 Code, ' 10.75) Penalty, see ' 10.75)

**' 94.30 STORAGE OF ANHYDROUS AMMONIA.**

It is unlawful to store anhydrous ammonia except by special permit from the Council. For the purpose of this section, the words *STORE* and *STORAGE* shall mean confining in any type of container except such as is then in transit upon a vehicle or other means of transportation. (1994 Code, ' 10.76) Penalty, see ' 10.99

**' 94.31 CLIMBING WATER TOWER.**

It is unlawful for any person, except a city employee acting within the course and scope of his employment, to climb or attempt to climb upon any part or portion of the water tank or tanks or structural supports of the tanks or the ladder leading from the ground to the top of the tank or tanks. (1994 Code, ' 10.77) Penalty, see ' 10.77

**' 94.32 CONSUMPTION OF BEER OR LIQUOR ON STREETS AND PUBLIC PROPERTY.**

It is unlawful for any person to consume, or possess in an unsealed container, beer or liquor, as those terms are defined in Chapter 114, on any street or other public property except city parks and other public property when and where permission has been specifically granted by the Council; provided, that this section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of the vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers. (1994 Code, ' 10.80) Penalty, see ' 10.99

**' 94.33 CONSUMPTION OF BEER, WINE OR LIQUOR ON PRIVATE PARKING LOTS.**

It is unlawful for any person to consume or possess in an unsealed container, beer, wine or liquor, as those terms are defined in Chapter 114, on any privately-owned parking lot which is clearly sign-posted prohibiting the possession and consumption; provided, that this section shall not apply to the possession of an unsealed container in a motor vehicle on privately-owned parking lots when the container is kept in the trunk of the vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

(1994 Code, ' 10.81)

**' 94.34 TOILET INSTALLATION REQUIRED.**

(A) It is the duty of every owner or occupant of any property within the city, having a dwelling house or business building situated thereon, which property is within 500 feet of any municipal water and sewer mains, to install a toilet in the dwelling or business building and make connection thereof with the water and sewer mains.

(B) Whenever the noncompliance of the owner or occupant of the property is reported to the County Health Officer, he or she shall forthwith make the investigation as he or she deems necessary or proper and report his or her findings to the Council.

(C) If the County Health Officer finds and reports that in his or her opinion the lack of toilet facilities is an unhealthful or unsanitary condition, the city shall forthwith serve written notice upon the owner or occupant requiring the installation of toilet facilities upon premises described in the notice, and connection thereof with the sewer and water mains, all of which shall be done within 30 days after service of the written notice.

(D) Whenever any owner or occupant shall default in compliance with the written notice the Council may by resolution direct that a toilet be installed and connection made with the water and sewer mains and that the actual cost of the installation be paid in the first instance out of the General Revenue Fund, and assessed against the property so benefitted.

(E) After the installation and connection is completed by order of the Council, the city shall serve a written notice of intention to make an assessment therefor.

(F) If the assessment is not paid within ten days the city shall certify the amount thereof to the County Auditor in the same manner as with other special assessments, provided that the Council may by resolution provide that the assessment be spread over a term of three years upon written request by the owner of the property.

(1994 Code, ' 10.02)

## CHAPTER 95: STREETS AND SIDEWALKS

### Section

- 95.01 Traffic and parking control
- 95.02 Scope and orders of a peace officer
- 95.03 Application
- 95.04 Ice and snow on public sidewalks
- 95.05 Regulation of grass, weeds, trees, structures and other objects in streets, alleys, boulevards and other public rights-of-way
- 95.06 Construction and reconstruction of roadway surfacing, sidewalk, curb and gutter
- 95.07 Street openings or excavations
- 95.08 Obstructions, fire, dumping, signs and other structures
- 95.09 Requirement of sewer and water main service lateral installation
- 95.10 Load limits
- 95.11 Curb and gutter, street and sidewalk painting or coloring
- 95.12 Motorized vehicles prohibited on sidewalks
- 95.13 Parades
- 95.14 School patrol
- 95.15 Sliding and coasting on public sidewalks, streets and avenues
- 95.16 Awnings
- 95.17 Private use of public streets and parking lots

### 95.01 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, the marking or sign-posting shall attest to Council action thereon.

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

(1) When clearly marked or sign-posted, traffic and parking may be temporarily restricted for any public or private purpose. The Director of Public Safety is hereby authorized to temporarily restrict traffic and parking in accordance herewith.

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

(3) It is unlawful to use traffic or parking lanes contrary to sign-posting or marking authorized

and described in this section.

(1994 Code, ' 7.01) Penalty, see ' 10.99

### ' 95.02 SCOPE AND ORDERS OF A PEACE 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 the streets, alleys and private roads.

(B) *Orders of a peace officer.* It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

(1994 Code, ' 7.02) Penalty, see ' 10.99

### ' 95.03 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 the specific exemptions as set forth in this chapter and Title VII with reference to authorized emergency vehicles.

(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 the chapters applying to vehicles.

(1994 Code, ' 7.03)

### ' 95.04 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 shall be abated by the owner or tenant of the abutting private property within 12 hours after the snow or ice has ceased to be deposited.

(B) *City to remove snow and ice.* The city may cause to be removed from all public sidewalks beginning 24 hours after snow or ice has ceased to fall, all snow and ice which may be discovered thereon, and it shall keep a record of the cost of removal and the private property adjacent to which the accumulations were found and removed.

(C) *Cost of removal to be assessed.* The City Clerk shall, upon direction of the Council, and on receipt of the information provided for in division (B) above, extend the cost of the removal of snow or ice as a special assessment against the lots or parcels of ground abutting on walks which were cleared,

and the special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

(D) *Civil suit for cost of removal.* The City Clerk shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in division (B) above, the cost of the clearing and the cost and disbursements of a civil action therefor.

(E) *City Clerk to report sidewalks cleared.* The City Clerk shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in division (B) above the report of the city thereon, and shall request the Council to determine by resolution the manner of collection to be used as provided in divisions (C) or (D) above.

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

(1994 Code, ' 7.04) Penalty, see ' 10.99

#### **' 95.05 REGULATION OF GRASS, WEEDS, TREES, STRUCTURES AND OTHER OBJECTS IN STREETS, ALLEYS, BOULEVARDS AND OTHER PUBLIC RIGHTS-OF-WAY.**

(A) *City to control tree planting (standards).* The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The city may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof. The standards shall be kept on file in the office of the City Clerk and may be revised from time to time by action of the Council upon the recommendation of the City Clerk.

(B) *Permit required.* It is a misdemeanor for any person to plant, spray, trim or remove trees or other plants which are upon city property, including rights-of-way, without first procuring from the city a permit in writing to do so.

(C) *Duty of property owners to cut grass and weeds and maintain trees and shrubs.* Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street to the center of the street. If the grass or weeds in such a place attain a height in excess of ten inches it shall be prima facie evidence of a failure to comply with this division. Every owner of property abutting on any street shall, subject to the provision herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs from the line of the property nearest to the street to the center of the street.

(D) *City may order work done.* The city may, in cases of failure to comply with this section, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon the street.

(E) *Assessment.* If the maintenance work is performed by the city as set forth in the foregoing division, the City Clerk shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk shall, at the next regular meeting thereof, present the certificate to the Council and obtain its approval thereof. When the certificate has been approved it shall be extended as to the cost therein stated as a special assessment against the abutting land and the special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

(1994 Code, ' 7.05) Penalty, see ' 10.99

#### **' 95.06 CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER.**

(A) *Methods of procedure.*

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

(2) With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with M.S. ' 429.011, as the same may from time to time be amended.

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

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

(D) *Inspection.* The Building Inspector shall inspect the improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the city to inspect or supervise the work.  
(1994 Code, ' 7.06)

#### ' 95.07 STREET OPENINGS OR EXCAVATIONS.

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

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

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

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

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

(2) *Insurance.* Prior to commencement of the work described in the application, the applicant shall furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than the maximum liability limits set forth in M.S. ' 466.04, as it may be amended from time to time, issued by an insurance company authorized to do business in the state on which the city is named as a co-insured.

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

(D) *Issuance of permit.* The Building Inspector shall issue the permit after: completion of the investigation; payment by the applicant in advance of all estimated costs as aforesaid; agreement by the applicant to the conditions of time and manner as aforesaid; agreement in writing by the applicant to pay all actual cost of repairs over and above the estimate, including cost of the investigation; and agreement in writing by the applicant to be bound by all of the provisions of this section.

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

(F) *Cost adjustment.* Within 60 days following completion of the permanent repairs the Building Inspector shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to the permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.

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

(1994 Code, ' 7.07) Penalty, see ' 10.99

## ' 95.08 OBSTRUCTIONS, FIRE, DUMPING, SIGNS AND OTHER STRUCTURES.

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

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

(C) *Dumping in streets.* It is unlawful for any person to throw or deposit in any street or any other public place any nails, dirt, glass, tin cans, metal scraps, garbage, leaves, grass or tree limbs, shreds or rubbish, or to empty any water containing salt or other injurious chemical thereon; the effect of this division shall extend, but not by way of limitation, to depositing grease, oil and other fuel or lubricants in the places, and to place a motor vehicle with essential parts (as defined in state statutes) removed, except vehicles as are temporarily disabled for a period not in excess of 12 hours.

(D) *Signs and other structures.* It is unlawful for any person to place or maintain a sign or other

structure in the traveled or untraveled portion of any street or other public property without first having obtained a written permit from the Council. In a district zoned for other than residential use, special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon the terms and conditions as may be set forth in the zoning or construction provisions of the city code.

(1994 Code, ' 7.08) Penalty, see ' 10.99

#### **' 95.09 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 the petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along the street will be served by the utilities installed in the street.

(B) *Sewer system service and water main service laterals.* No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

(C) *Waiver.* The Council may waive the requirements of this section only if it finds the effects thereof are burdensome and upon the notice and hearing as the Council may deem necessary or proper. (1994 Code, ' 7.09) Penalty, see ' 10.99

#### **' 95.10 LOAD LIMITS.**

The City Clerk, upon the recommendation of the Director of Public Safety, may from time to time impose upon vehicular traffic on any part or all of the streets load limits as may be necessary or desirable. Those 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.

(1994 Code, ' 7.10) Penalty, see ' 10.99

#### **' 95.11 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 the coloring shall be approved by the City Clerk.

(1994 Code, ' 7.11) Penalty, see ' 10.99

**' 95.12 MOTORIZED VEHICLES PROHIBITED ON SIDEWALKS.**

It is unlawful for any person to drive or operate a motorized vehicle on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress to private property lying on the other side thereof.

(1994 Code, ' 7.12) Penalty, see ' 10.99

**' 95.13 PARADES.**

(A) *Definition.* The term **PARADE** means any movement of vehicles, persons or animals, or any combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulation, if the movement is without a permit hereunder.

(B) *Permit required.* It is unlawful to sponsor or participate in a parade for which no permit has been obtained from the city, and it is also unlawful to obtain a parade permit and not conduct the same in accordance with a permit granted by the city. Application for the permit shall be made to the City Clerk and accompanied by a fee which may be set by resolution of the Council, at least 14 days in advance of the date on which it is to occur and shall state the sponsoring organization or individuals, the route, the length, the estimated time of commencement and termination, the general composition, and the application shall be executed by the individuals applying therefor or the duly authorized agent or representative of the sponsoring organization.

(C) *Procedure and granting.*

(1) The City Clerk shall forthwith refer all applications for parades to the Director of Public Safety for his or her consideration which shall take no longer than seven days.

(2) If any state trunk highways are in the route the Director of Public Safety shall make all necessary arrangements with the State Department of Highways for alternate routes or whatever may be necessary.

(3) If the Director of Public Safety finds that a parade will not cause a hazard to persons or property, and will cause no great inconvenience to the public, and if he or she is able to make arrangements for necessary direction and control of traffic, he or she shall endorse his or her acceptance and issue the permit.

(4) If the Director of Public Safety finds the parade described in the application to be a hazard, a substantial inconvenience, or if he or she is unable to make adequate arrangements for direction or control of traffic, he or she shall return the same to the City Clerk with his or her reasons for denial, and the permit shall not be granted unless all conditions and objections of the Director of Public Safety are met or removed by the applicant.

(1994 Code, ' 7.31) Penalty, see ' 10.99

**' 95.14 SCHOOL PATROL.**

(A) *Appointment.* The administrative officers of the schools in the city are hereby authorized to appoint persons from and among the students attending various schools to serve without compensation as school patrol officers.

(B) *Powers and duties.*

(1) School patrol officers appointed under authority of this section shall have the same powers as any police officer to regulate traffic in the vicinity of the school from which they are chosen.

(2) Their duties shall extend to regulating the traffic at intersections near the school for the prevention of injury to school children and other pedestrian traffic.

(C) *Unlawful act.* It is a misdemeanor for the driver of any motor vehicle to fail or refuse to obey the lawful direction of a school patrol officer directing traffic.  
(1994 Code, ' 7.32) Penalty, see ' 10.99

**' 95.15 SLIDING AND COASTING ON PUBLIC SIDEWALKS, STREETS AND AVENUES.**

(A) It is unlawful for any person to slide or coast on any public sidewalk, street or avenue, upon any sled, wagon, toboggan or other similar recreational devices.

(B) It is unlawful for any person to slide or coast on any of the hereinafter designated areas, whether upon a sidewalk, street or avenue or public right-of-way, upon a fly roller skates, roller blades, roller skis or skate boards. These activities shall be prohibited in the following designated area:

(1) Lake Street from Fifth Avenue N.W. to Lake Shore Drive;

(2) All Avenues between Lake Street and First Street S.W. and Lake Street and First Street N.W.;

(3) Service Road on the east and west side of Highway #73 from First Street S.W. to Sixth Street S.W.;

(4) All tennis courts;

(5) Industrial Drive from Sixth Street S.W. to Highway #169;

(6) Third Avenue N.W. in its entirety; and

(7) Second Avenue from Lake Street to Eighth Street N.W.  
(1994 Code, ' 7.33) Penalty, see ' 10.99

**' 95.16 AWNINGS.**

It is unlawful for any person to erect or maintain any awning or other projection attached to a building and projecting over a public sidewalk or other public property, except that this provision shall not apply to the awnings and projections erected or installed prior to the effective date of this section. (1994 Code, ' 7.34) Penalty, see ' 10.99

**' 95.17 PRIVATE USE OF PUBLIC STREETS AND PARKING LOTS.***(A) Authority, permission and procedure.*

(1) Upon an application duly made to the City Clerk and reviewed and recommended by the Director of Public Safety, the Council may in its discretions grant special permission whereby on-street parking or the use of city-owned parking lots or ramps or public sidewalks may be temporarily or permanently prohibited or restricted for private reasons and purposes (including, but not limited to, establishment of private or Aleased@ parking, Aloading zones@ or display of merchandise on sidewalks) at places, on terms and for compensation as the Council may deem just and equitable.

(2) In establishing the amount of the compensation to be paid to the city, the Council shall consider the amount of space, location thereof, loss of parking meter revenues, if any, public inconvenience and hazards to persons or property.

(3) Upon complaint of any aggrieved person at any time and by reason of any specific special permission so granted, the Council shall at its next regular meeting after receipt of the complaint, call a hearing thereon to be held after ten days= notice in writing to applicant, complainant and other persons as may appear to have interests therein.

(4) After the hearing the Council shall decide whether to terminate, continue or re-define the terms of the permission and the decision shall be final and binding on all persons directly or indirectly interested therein, except that the Council may, on its own motion, reconsider the same.

*(B) Public vehicles.* Free and reserved on-street parking shall be limited to city-owned and -operated vehicles.

*(C) Construction use.* The use or blocking of parking stalls or spaces essential to construction work on abutting premises may be temporarily permitted at the discretion of the Director of Public Safety, without charge, within the limitations or conditions placed thereon by the Director of Public Safety, and for a period of time as absolutely essential to the progress or completion of the construction.

*(D) Forbidden practices.*

(1) It is unlawful for any person to park or otherwise infringe upon a grant of right under this section, when clearly and distinctly marked or sign-posted.

(2) It is unlawful for any person not granted the right to assert the same, or for any grantee of the right to exceed the same under claim thereto.

(1994 Code, ' 7.40) Penalty, see ' 10.99



## CHAPTER 96: NOISE CONTROL

### Section

96.01 Unlawful to make a loud or unnecessary noise

#### **96.01 UNLAWFUL TO MAKE A LOUD OR UNNECESSARY NOISE.**

It is unlawful for any person to make, or cause to be made, any loud, unnecessary or unusual noise which annoys, disturbs or affects the comfort, repose, health or peace of others by any of the following acts:

(A) *Horns and signaling devices.* Using, operating or permitting to be used or operated any horn or signaling device on any automobile, motorcycle or other vehicle, except as a danger warning; or

(B) *Radios, video and audio tape and compact disc players.* Playing, using, operating or permitting to be played, used or operated any radio, audio or video tape or compact disc player, phonograph or other machine or device for the producing or reproducing of sound in a manner so as to annoy, disturb or affect the comfort, repose, health or peace of a person or persons of ordinary sensibilities.

(1) The play, use or operation of any radio, audio or video tape or compact disc player, phonograph or other machine for the production or reproduction of sound in a manner so as to be plainly audible at a distance of 50 feet from the machine or device shall be prima facie evidence of a violation of this section.

(2) When any sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, it is unlawful for the owner of a vehicle, or the person in charge or control of the vehicle if the owner is not then present in the vehicle to allow the sound.

(3) This section shall not apply to sound produced by the following:

(a) Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing the activity;

(b) Church bells, chimes or carillons;

(c) School bells;

(d) Chisholm High School Band;

(e) Anti-theft devices; and

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

(4) With the exception of the machines or devices listed in division (B)(3) above, this section shall apply to all radios, audio and video tape and compact disc players, phonographs and machines and devices for the production or reproduction of sound, whether on public or private property.

(Ord. 105, passed 6-10-2003) Penalty, see ' 10.99