

City of Pennock
Draft Code of Ordinances

Note:

Pennock's draft City Code is a work in progress.

The following code language should be considered a

First Draft. A full public review period will take

Place prior to the City Council adopting the new codes.

If you have any comments or questions on the draft language,

*Please contact the City Clerk Administrator. All comments must be
submitted in writing.*

Revision Guide:

Underlined text (<u>example</u>) represents new language
Strikethrough text (example) represents deleted language

Draft Date: November 17, 2015

CHAPTER I: CODE PROVISIONS

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Chapter I: Code Provisions

Subsection 10.01 Title of Code:

- A. All ordinances of a permanent and general nature of the City of Pennock, as revised, codified, rearranged, renumbered, and consolidated into component codes, chapters sections and subsections, shall be known and designated as the “Municipal Code,” for which designation “Code of Ordinances,” “Codified Ordinances” or “Code” may be substituted. Code chapter, section and subsection headings do not constitute any part of the law as contained in the Code.

- B. All references to chapters, sections and subsections are to the components of the Code, unless otherwise specified. Any component Code may be referred to and cited by its name, such as the “Traffic Code.” Sections and Subsections may be referred to and cited by number, such as “10.01”, meaning Section 10, Subsection 01. Headings and captions used in this Code other than the chapter, section and subsection numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

Subsection 10.02 Rules of Interpretation:

- A. **Generally.** Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of State law.

- B. **Specific rules of interpretation.** The construction of all ordinances of this City shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:
 - 1. **AND or OR.** Either conjunction shall include the other as if written “and/or,” whenever the context requires.

 - 2. **Acts by assistants.** When a statute, Code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

 - 3. **Gender; singular and plural; tenses.** Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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4. **General term.** A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

Subsection 10.03 Application to Future Ordinances: All provisions of Chapter I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this Code unless otherwise specifically provided.

Subsection 10.04 Captions: Headings and captions used in this Code other than the chapter, section and subsection numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

Subsection 10.05 Definitions:

- A. **General rule.** Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.
- B. **Definitions.** For the purpose of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
 1. **AND/OR:** Either or both of the two stated possibilities.
 2. **CITY:** The area within the corporate boundaries of the City as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term City when used in this Code may also be used to refer to the City Council and its authorized representatives.
 3. **CODE, THIS CODE or THIS CODE OF ORDINANCES:** This City of Pennock Code as modified by amendment, revision, and adoption of new chapters, sections or subsections.
 4. **COUNTY:** Refers to Kandiyohi County unless otherwise stated.
 5. **MAY:** The act referred to is permissive.
 6. **MONTH:** A calendar month.

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7. **OATH:** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED. All terms shall mean a pledge taken by the person and administered by an individual authorized by State law.
8. **OFFICER, OFFICE, EMPLOYEE, BOARD, or DEPARTMENT:** An officer, office, employee, commission, or department of this City unless the context clearly requires otherwise.
9. **PERSON:** Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.
10. **PRECEDING or FOLLOWING:** Next before or next after, respectively.
11. **SHALL:** The act referred to is mandatory.
12. **SIGNATURE or SUBSCRIPTION:** Includes a mark when the person cannot write.
13. **STATE:** The State of Minnesota unless otherwise stated.
14. **WRITTEN:** Any representation of words, letters, or figures, whether by printing or otherwise.
15. **YEAR:** A calendar year, unless otherwise expressed.

Subsection 10.06 Severability: If any provision of this Code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Subsection 10.07 Reference to Other Subsections: Whenever in one subsection reference is made to another subsection hereof, that reference shall extend and apply to the subsection referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

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Subsection 10.08 Reference to Offices: Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this City exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

Subsection 10.09 Errors and Omissions: If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

Subsection 10.10 Official Time: The official time, as established by applicable State and Federal laws, shall be the official time within this City for the transaction of all City business.

Subsection 10.11 Reasonable Time:

- A. In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.
- B. The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

Subsection 10.12 Ordinances Repealed: This Code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this Code shall be deemed repealed from and after the effective date of this Code.

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Subsection 10.13 Ordinances Unaffected: All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this Code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

Subsection 10.14 Effective Date of Ordinances: All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

Subsection 10.15 Repeal or Modification of Ordinance:

- A. Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.
- B. No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.
- C. When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

Subsection 10.16 Ordinances which Amend or Supplement Code:

- A. If the City Council shall desire to amend any existing chapter or section of this Code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.
- B. Any ordinance which is proposed to add to the existing Code a new chapter or section shall indicate, with reference to the arrangement of this Code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

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Subsection 10.17 Preservation of Penalties, Offenses, Rights and Liabilities: All offenses committed under laws in force prior to the effective date of this Code shall be prosecuted and remain punishable as provided by those laws. This Code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this Code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this Code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this Code had not been enacted.

Subsection 10.18 Copies of Code: The official copy of this Code shall be kept in the office of the City Clerk Administrator for public inspection. A link to the Code shall also be kept online at the City of Pennock's official website (currently www.cityofpennock.com). The Clerk Administrator shall also provide a hard copy within three business days of such request (i.e., Monday through Friday except legal holidays) at a price determined in the **City's Schedule of Fees.**

Subsection 10.19 Adoption of Statutes and Rules by Reference:

- A. It is the intention of the City Council that, when adopting this Code, all future amendments to any State or Federal rules and statutes adopted by reference in this Code or referenced in this Code are hereby adopted by reference or referenced as if they had been in existence at the time this Code was adopted, unless there is clear intention expressed in the Code to the contrary.
- B. It is the intention of the City Council that, when adopting this Code, all future supplements are hereby adopted as if they have been in existence at the time this Code was enacted, unless there is clear intention expressed in the Code to the contrary.

Subsection 10.20 Enforcement

- A. Any licensed Peace Officer shall have the authority to enforce any provision of this Code.
- B. As permitted by M.S. '626.862, as it may be amended from time to time, the City Clerk Administrator shall have the authority to administer and enforce this Code. In addition, under that statutory authority, certain individuals designated within the Code or by the Clerk Administrator or City Council shall have the authority to administer and enforce the provisions

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specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the Code.

- C. The City Clerk Administrator and any City Official or employee designated by this Code who has the responsibility to perform a duty under this Code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this Code.

- D. If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk Administrator, Peace Officer, or any employee or official charged with the duty of enforcing the provisions of this Code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this Code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

- E. Every licensee, owner, resident or other person in control of property within the City shall permit at reasonable times inspections of or entrance to the property by the City Clerk Administrator or any other authorized City Officer or employee only to determine whether the provisions of this Code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or City service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Clerk Administrator to object to the termination before it occurs, subject to appeal of the Clerk's decision to the City Council at a regularly scheduled or special meeting.

- F. Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare. Potentially dangerous and/or life threatening situations constitute implied consent.

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G. Notice of Code Violation. A Notice of Code Violation shall be delivered to the offending party(ies). The following is an example of the City’s Notice of Code Violation, which can be further customized based upon individual circumstances:

NOTICE OF CODE VIOLATION

To: *(name and address of person who is alleged to have violated the Code)*

From: *(Name and title of City Official giving the notice)*

Re: Alleged violation of Section of the City Code, relating to *(give title of section)*

Date: *(date of notice)*

I hereby allege that on *(date of violation)* you violated *(section #)* of Pennock’s City Codes relating to *(brief summary of the violation)*.

The City Council has by resolution established a fine in the amount of \$*(dollar amount)* for this violation.

Payment is due within 14 days of the date of this notice. Before or on the due date, you may request in writing an additional 14-day extension of the time to pay the fines which shall automatically be granted upon acceptance.

Optional Sentence: As an alternative to the payment of this fine, if the situation that gave rise to this alleged violation is corrected by *(establish date)*, then the payment of the fine will be waived.

Even if the fine is paid, the City reserves the right to institute appropriate proceedings at to restrain, correct or abate the violation depending upon the unique circumstances of the violation.

Before or on the due date, you may request to appear before the City Council to contest the violation and/or fine. After a hearing before the Council, the Council may determine to withdraw or adjust fine.

Payment of the fine may be made by check, cash or money order to the City of Pennock.

Signed:

(Name and Title of Person Giving Notice)

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Subsection 10.99 General Penalties:

- A. **Misdemeanor.** Any person, firm or corporation who violates any provision of this Code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this Code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days in jail and/or a fine of up to \$1,000 for each offense.
- B. **Petty Misdemeanor.** Any person, firm or corporation who violates any provision of this Code, including Minnesota Statutes adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed shall be a sentence of a fine of not more than \$300 for each offense.
- C. **A separate offense shall be deemed committed upon each day during which a violation occurs or continues.**
- D. **Prosecution Costs.** In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. In addition to any penalties provided for in this Code, if any person, firm or corporation fails to comply with any provision of this Code, the Council or any designated City Official may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.
- E. **The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for a violation.**
- F. **Schedule of Fees.** The City of Pennock will annually adopt a ***Schedule of Fees*** that may compliment, clarify, and/or supersede the penalties identified throughout the Code. A public hearing must be held regarding any revisions to the City's ***Schedule of Fees***.

CHAPTER III: ADMINISTRATION

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Underlined text (example) represents new language
Strikethrough text (~~example~~) represents deleted language

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Section 30: Corporate Seal

The corporate seal of the City of Pennock shall contain the following words: “City of Pennock, Kandiyohi County, Minnesota; Incorporated March 31, 1903;” and shall be in the ordinary manner and form of such seals.

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Section 31: City Council

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Subsection 31.01 Establishment of the City Council

- A. ***Election of City Council Members.*** The City Council of the City of Pennock is hereby established, consisting of four elected members. The elected members shall be voted on from a list of persons who filed with the City Clerk Administrator for the positions open. That list shall be placed on a ballot and members shall be elected by popular vote from the residents of the City of Pennock in a general election. Only members residing in the City of Pennock for a period of not less than one year shall be eligible for filing for positions of Mayor or Council persons. The total Council shall consist of five persons, one mayor and four council members.
- B. ***Members of the City Council.*** The Council shall consist of a presiding officer or Mayor, and four other Council members representing the residents of the City of Pennock. The Mayor shall be elected for a term of two years and at the expiration of their term, may again file for re-election. Two Council members shall all be elected at the same time for a period of four years. The two remaining Council members shall be elected for a four-year term the next election so as to keep two experienced Council persons on the City Council at all times. It is the Mayor's duty to preside over each meeting of the Council. If the Mayor is not present, then his designated alternate shall then preside. It shall be the duty of the City Council to bring forth discussion on amendments and contracts proposed before the Council and vote on them.

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Subsection 31.02 City Council Meetings:

- A. ***Regular Meetings.*** Regular meetings of the City Council shall be held on the first Tuesday of every month at 7 P.M. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special and adjourned meetings, shall be held at the Pennock Community Center unless the City Council decides otherwise at a prior meeting, or a meeting in the Pennock Community Center is impossible.
- B. ***Special Meetings.*** The Mayor or any two members of the City Council may call a special meeting of the City Council upon at least 48 hours written notice to each member of the City Council. This notice shall be delivered personally to each member or shall be left at the member's usual place of residence with some responsible person. Notice to the public shall be given in accordance with state law.
- C. ***Emergency Meetings.*** An emergency meeting is a meeting defined by M.S. 471.705, Subd. 1c(c), as amended. Notice of emergency meetings shall be given as required by M.S. 471.705, Subd. 1c(c), as amended.
- D. ***Closed Meetings.*** A closed meeting is a meeting of a public body that the public is not allowed to attend. A public meeting can only be closed if it meets the requirements of one of the specific exceptions listed in the open meeting law (listed below). The same notice requirements that apply to open meetings also apply to closed meetings. For example, if a closed meeting takes place at a regular meeting, the notice requirements for a regular meeting apply. Likewise, if a closed meeting takes place at a special meeting or an emergency meeting, the notice requirements for a special meeting or emergency meeting apply.

Minnesota Statutes § 13D lists the following five types of meetings that ***may be closed*** by a public body:

1. ***Labor negotiation strategies.*** A meeting to consider strategies for labor negotiations (note: the actual labor negotiations must be held at an open meeting);
2. ***Performance evaluations.*** A public body may close a meeting to evaluate the performance of an individual who is subject to its authority;
3. ***Attorney-client privilege.*** Meetings between the governing body and its attorney to discuss active, threatened, or pending litigation.

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4. **Purchase or sale of property.** This includes determining the asking price for real or personal property to be sold by the public body; the review of confidential or nonpublic appraisal data; and to develop or consider offers or counteroffers for the purchase or sale of real or personal property.
5. **Security reports.** A meeting may be closed to receive briefing and reports related to all law enforcement and/or security issues (note: all financial issues relating to security matters must be made at an open meeting).

Minnesota Statutes § 13D lists the following five types of meetings that *must be closed* by a public body:

1. **Misconduct allegations.** A public body must close a meeting for preliminary consideration of allegations or charges against an individual subject to the public body's authority.
 2. **Certain not-public data.** A public body must close a meeting whenever confidential reports and/or data is presented, including but not limited to:
 - a. Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;
 - b. Internal affairs data relating to allegations of law enforcement personnel misconduct or active law enforcement investigative data;
 - c. Educational, health, medical, welfare, mental health, or similar data that is not public data; and
 - d. Certain medical records.
- E. **First Meeting of New Year.** At the first regular City Council meeting in January of each year, the City Council shall:
1. Designate the depositories of City funds;
 2. Designate the official newspaper;
 3. Choose one of the Council Members as Deputy Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the City or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;
 4. Appoint the City Clerk Administrator and other officers and employees and members of departments, boards, commissions and committees as necessary;

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5. Establish and appoint Council Members to those City Council committees as are deemed appropriate for the efficient and orderly management of the City;
6. Adopt the Code's corresponding *Schedule of Fees*.

F. ***Public meetings.*** All City Council meetings, including special, emergency and adjourned meetings and meetings of City Council committees, shall be conducted in accordance with the Minnesota Open Meeting Law, M.S. '471.705, as it may be amended from time to time.

Subsection 31.03 Presiding Officer:

- A. ***Who Presides.*** The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the Deputy Mayor shall preside. In the absence of both, the City Clerk Administrator shall call the meeting to order and shall preside until the Council Members present at the meeting choose one of their number to act temporarily as presiding officer.
- B. ***Procedure.*** The presiding officer shall preserve order, enforce any rules of procedure adopted by the City Council, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order.

Subsection 31.04 Minutes:

- A. ***Generally.*** Minutes of each City Council meeting shall be kept by the City Clerk Administrator or, in the City Clerk Administrator's absence, by the Deputy City Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the City Clerk Administrator and can be accurately identified from the description given in the minutes.
- B. ***Approval.*** The minutes of each meeting shall be reduced to typewritten form, shall be signed by the City Clerk, and copies thereof shall be distributed to each Council Member at the next regular City Council meeting for approval consideration. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the City Council. If there is an objection, the City Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved. The City Clerk Administrator shall publish minutes of each meeting in the official City newspaper no later than one month after their approval by the City Council.

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Subsection 31.05 Order of Business:

A. ***Order established.*** Each meeting of the City Council shall convene at the time and place appointed therefore. City Council business shall be conducted in the following order unless varied by the presiding officer:

1. Call to order.
2. Roll call.
3. Approval of minutes.
4. Consent agenda.
5. Public hearings.
6. Petitions, requests, and communications.
7. Ordinances and resolutions.
8. Reports of officers, boards, and committees.
9. Unfinished business.
10. New business.
11. Miscellaneous.
12. Adjournment.

B. ***Petitions and agenda.*** Petitions and other papers addressed to the City Council shall be read by the City Clerk Administrator upon presentation of the same to the City Council. All persons desiring to present new business before the City Council shall inform the City Clerk Administrator thereof at least 24 hours before new business is to be heard. The City Clerk Administrator may prepare an agenda of the new business for submission to the City Council on or before the time of the next regular meeting. The Council has the right to request additional information prior to making a final decision on the agenda/action item.

Subsection 31.06 Voting: The votes of the Council Members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the Council Members on any action taken shall be recorded in the minutes. The vote of each Council Member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. If any Council Member is present but does not vote, the minutes, as to his or her name, shall be marked “Present-Not Voting.”

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Subsection 31.07 Powers of the City Council:

- A. *City Employees.* The City Clerk Administrator shall be appointed by members of the City Council on a majority vote from a list of persons interested in filling the position. All other City employees can either be hired in the same fashion or can be done so by an authorized person and/or an appointed hiring committee.

- B. *Ordinances, Resolutions, Petitions, Contracts, and Official City Business.* All official City business, including but not limited to adopting ordinances, resolutions, and entering into contracts, shall be passed by the City Council by a majority vote. All official business shall be signed by the Mayor, attested by the City Clerk, published in the official City newspaper and filed by the City Clerk. Proof of publication of every ordinance adopted shall be attached and filed with the ordinance, including the previous number and title on ordinances that are revised and/or repealed, in whole or in part.

Subsection 31.08 Suspension or Amendment of Rules: These rules may be suspended only by a two-thirds vote of the members present and voting.

Subsection 31.09 Quorum for Conducting Business:

- A. A quorum shall consist of three City Council members, including the Mayor.

- B. If no quorum is present, the City Council shall not thereby stand adjourned, but the members present shall adjourn or recess the City Council by a majority vote.

Subsection 31.10 Financial Audits: Beginning within the year in which this ordinance becomes effective and each year thereafter, there shall be an audit of the City's financial affairs by the State Auditor or a Public Accountant in accordance with minimum auditing procedures prescribed by the State Auditor.

Subsection 31.11 Fees and Charges: The City Council may enact an ordinance establishing fees that are authorized by this Code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this Code shall remain in effect. All fees established by the ordinance may be amended from time to time by amendment or by adoption of the City's *Schedule of Fees*.

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Subsection 31.12 Compensation of Mayor and Council Members: The compensation of the Mayor and the compensation of each Council Member shall be established from time to time by City Council ordinance pursuant to M. S. § 415. 11, as it may be amended from time to time, or as listed in the City's *Schedule of Fees*.

Subsection 31.13 Compensation of Officers and Employees: Officers and employees of the City shall be compensated at a rate as established from time to time by City Council ordinance.

Subsection 31.14 Background Information:

A. *Applicants for City employment.*

- (1) ***Purpose.*** The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in division (2) below.
- (2) ***Criminal history employment background investigations.*** The City Law Enforcement or County Sheriff's Office is hereby required, as the exclusive entity within the City to do a criminal history background investigation on the applicants for the following positions within the City, unless the City's hiring authority concludes that a background investigation is not needed:
 - (a) Employment positions. All regular part-time or full-time employees of the City and other positions that work with children or vulnerable adults.
 - (b) In conducting the criminal history background investigation in order to screen employment applicants, the Law Enforcement is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions (BCA) Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Law Enforcement or County Sheriff's Office under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by Law Enforcement or the County Sheriff's Office to the hiring authority, including the City Council, the City Clerk Administrator or other city staff involved in the hiring process.

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- (3) Before the investigation is undertaken, the applicant must authorize the Law Enforcement or County Sheriff's Office by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:
 - (a) The grounds and reasons for the denial.
 - (b) The applicant complaint and grievance procedure set forth in M.S. § 364.06.
 - (c) The earliest date the applicant may reapply for employment.
 - (d) That all competent evidence of rehabilitation will be considered upon reapplication.

B. Applicants for City licenses or Permits.

(1) ***Purpose.*** The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

(2) ***Criminal history license background investigations.*** Law Enforcement or the Sheriff's Office is hereby authorized to do a criminal history background investigation on the applicants and their employees for all official City business.

(3) In conducting the criminal history background investigation, Law Enforcement or the Sheriff's Office is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policies. Any data that is accessed and acquired shall be maintained at the Law Enforcement or Sheriff's Office. A summary of the results of the Computerized Criminal History data may be released by the Law Enforcement or Sheriff's Office to the City Council, the City Clerk Administrator or other City staff.

(4) Before the investigation is undertaken, the applicant must authorize the Law Enforcement or Sheriff's Office by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13 as it may be amended from time to

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time regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09 as it may be amended from time to time, the city will not reject an applicant for a license or permit on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- (a) The grounds and reasons for the denial.
- (b) The applicant complaint and grievance procedure set forth in M.S. § 364.06.
- (c) The earliest date the applicant may reapply for the license.
- (d) That all competent evidence of rehabilitation will be considered upon reapplication.

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Section 32: Planning Commission

Subsection 32.01 Establishment of the Planning Commission

Subsection 32.02 Membership and Organization

Subsection 32.03 Powers and Duties

Subsection 32.04 Decisions

Subsection 32.01 Establishment of the Planning Commission: A three-member Planning Commission for the City is hereby established. The Planning Commission shall be the City planning agency authorized by Minnesota Statutes (M.S.) 462.354(1), as it may be amended from time to time.

Subsection 32.02 Membership and Organization:

- A. Members from the City Council and/or appointed City residents shall serve on the Planning Commission.
- B. The City Council shall designate a Zoning Officer who will preside over the Planning Commission. The Zoning Officer may or may not be the City Clerk Administrator or a member of the City Council.

Subsection 32.03 Powers and Duties: It is the intent of this Ordinance that the duties of the City Planning Commission shall include the following:

- A. Review all applications for appeals and variances to this Ordinance and report the findings and recommendations to the City Council as provided in this Ordinance.
- B. Review or initiate applications for amendments and changes to this Ordinance and report the findings and recommendations to the City Council as provided in this Ordinance.
- C. Review, hear and make recommendations of all applications for conditional use permits as provided in this Ordinance.
- D. Conduct appropriate public hearings as regards to this Zoning Ordinance.
- E. Prepare, in cooperation with the Zoning Administrator, an annual review related to the effectiveness of this Ordinance as provided in this Ordinance.

Subsection 32.04 Decisions: All actions and recommendations of the Planning Commission pertaining to this Ordinance shall require a simple majority of those members attending official Commission meetings. The City Council reserves the right to overturn such actions and recommendations by a majority vote.

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Section 33: Law Enforcement

<u>Subsection 33.00</u>	<u>Right to Retain Law Enforcement Services</u>
<u>Subsection 33.01</u>	<u>Resolution Adopting Agreement for Law Enforcement Services</u>
<u>Subsection 33.02</u>	<u>Kandiyohi County Sherriff's Office</u>
<u>Subsection 33.03</u>	<u>City Cooperation</u>
<u>Subsection 33.04</u>	<u>Labor and Equipment</u>
<u>Subsection 33.05</u>	<u>Liability</u>
<u>Subsection 33.06</u>	<u>Effective Date</u>
<u>Subsection 33.07</u>	<u>Compensation Rate and Hours</u>
<u>Subsection 33.08</u>	<u>Prosecution of Fines and Arrests</u>
<u>Subsection 33.09</u>	<u>Revisions to Agreement</u>

Subsection 33.00 Right to Retain Law Enforcement Services. The City retains the right to maintain its own law enforcement services or contract with the Kandiyohi County Sheriff's Office.

Subsection 33.01 Resolution Adopting Agreement for Law Enforcement Services

THIS AGREEMENT, made and entered into this 1st day of January 2014, by and between the County of Kandiyohi, hereinafter referred to as "County", and the City of Pennock, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, The City of Pennock is desirous of contracting with the County of Kandiyohi for the performance of law enforcement functions within the city limits of the City of Pennock through the Sheriff's Office; and

WHEREAS, The County of Kandiyohi and the Sheriff of Kandiyohi County are agreeable to rendering such services; and

WHEREAS, such contracts are authorized and provided for by the Minnesota Statutes 1975, paragraph 471.59 and 436.05 et seq.;

NOW THEREFORE, it is agreed by and between the following parties, County of Kandiyohi; Sheriff of Kandiyohi County; and the City of Pennock as follows:

Subsection 33.02 Kandiyohi County Sherriff's Office

The County of Kandiyohi shall, through the office of the Sheriff, provide law enforcement services within the corporate limits of the City of Pennock, as those may exist from time to time in the following manner:

- A. Services contemplated hereunder shall include the enforcement of state statutes, municipal ordinances of the same type or nature as normally enforced by the Sheriff in unincorporated territories of the County. Included hereunder are traffic enforcement and other criminal statues, but shall exclude such licensing or other ordinance requirements, which are essentially civil in nature such as building code, animal control, zoning, etc.

- B. The rendition of such service, standards of performance, discipline of officers assigned, and any other matters incidental to the performance of such services and the control of personnel so employed, shall remain in the County. In the event of dispute between the parties as to actual performance rendered hereunder, tickets issued, criminal actions commenced, or any other matters determining the level or actual performance of law enforcement services rendered, the actual determination of such cases shall be made exclusively by the Sheriff of the County and those responsible for the prosecution thereof.

Subsection 33.03 City Cooperation

To facilitate performance of said functions, the County and the officer assigned under said contract shall have full cooperation and assistance from all elected officials, officers, agents and employees of the City. Including access to all city owned property and buildings and reasonable use of the City facilities and equipment.

Subsection 33.04 Labor and Equipment

The County shall furnish and supply all necessary labor, supervision, equipment and communication facilities, central records unit, and supplies necessary to maintain the appropriate level of service to be rendered hereunder.

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Subsection 33.05 Liability

The County shall assume all liability for the direct payment of salaries, wages, workers' compensation, or any other insurance relating to the operation of the assigned Deputy or the contract hereunder, and shall hold the City harmless for any such claim for compensation, insurance, injury, or sickness arising out of his/her employment, and the County hereby agrees to hold the City harmless therefrom. Not included hereunder is the assumption of liability by the County for intentional or negligent acts of the city, its officers, or employees, which may be determined by a Court of Law, unless the same be contemplated and covered under County workers' compensation coverage.

Subsection 33.06 Effective Date

- A. Unless sooner terminated as provided herein, this Agreement shall be effective January 1, 2014, and shall run for a period of twelve months thereafter, said renewal to be at the option of the governing body of the City, with the consent of the Board of Commissioners of Kandiyohi county and the Sheriff of Kandiyohi County. Upon such renewal agreement, the period of renewal shall be for successive periods of two years each.
- B. In the event the City desires to renew this Agreement for any succeeding two year period, they shall, not later than sixty (60) days preceding the expiration date, notify the Board of County Commissioners, which shall thereafter have thirty (30) days upon receipt of notice to either accept or reject such renewal for an additional two-year period on the same terms or such other terms as it deems advisable.
- C. Subsequent Agreements made between the City of Pennock and the Kandiyohi County Sheriff's Office shall replace the provisions set forth in this Section of Pennock's Code of Ordinances.

Subsection 33.07 Compensation Rate and Hours

- A. As and for compensation hereunder, the City agrees to pay the County an hourly rate as negotiated by contract. The county shall submit to the City a monthly billing for the actual hours of service and payment shall be made by the City upon receipt of such billing to the Kandiyohi County treasurer.

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- B. The County agrees to provide the city with law enforcement services for a number of hours per week as negotiated by contract. The City shall be entitled to receive a monthly report of actual hours spent.

Subsection 33.08 Prosecution of Fines and Arrests

It is understood and agreed that fines for any arrests or citations issued by the officer assigned hereunder shall be appropriately prosecuted in the Kandiyohi County Courts, and any fines resulting therefrom shall be remitted as is now provided by law with reference to offenses occurring within the city limits of Pennock.

Subsection 33.09 Revisions to Agreement

Upon notice given by either party, negotiations will be undertaken for the purpose of revising, adding to or striking and of its provisions which appear to be unworkable or insufficient as set forth herein, and that such changes, if any, when agreed to, may be entered by auxiliary contract which shall have the same effect as though they were originally a provision of this original Agreement, providing, however, that such changes to be effective must be accordance with the same formalities as the original Agreement herein.

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**Section 34: Area Fire
Department and First Responders**

Subsection 34.01 Resolution Adopting Joint Powers Agreement

Subsection 34.02 General Purpose (Article 1)

Subsection 34.03 Joint Powers Board (Article 2)

Subsection 34.01 Resolution Adopting Joint Powers Agreement (as amended from time to time):

WHEREAS, City of Pennock, Minnesota, hereinafter referred to as "City "is A municipal and Public Corporation in the State of Minnesota; and

WHEREAS, Mamre, St. Johns, Dovre and Arctander Townships, hereinafter referred to as "Townships" are a Municipal and Public Corporation in the State of Minnesota; and

WHEREAS, The City and Townships are authorized by law in the State of Minnesota to establish finance and maintain a fire department and a first responders unit and facility; and

WHEREAS, MSA Section 471.59 authorizes two or more municipal governmental units by agreement of their respective governing bodies to jointly or cooperatively exercise any power common to the contracting parties to provide for a joint board and governing body representing the parties to the Agreement; and

WHEREAS, the Governing bodies of the City and Townships have determined it to be in the best interest to the City and Townships, their constituents, citizens and the general public residing in their communities to jointly own, operate and maintain firefighting and rescue equipment and first responders facilities personnel and equipment; and

WHEREAS, the adoption of this Joint Powers Agreement has been authorized by the City Council City of Pennock and the Township Board of Supervisors of Mamre, St. Johns, Dovre and Arctander Townships;

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

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Subsection 34.02 General Purpose (referred to as Article 1 in the Resolution)

The purpose this Agreement is to provide for the joint ownership, use, operation and maintenance of fire-fighting and first responders facilities and equipment. The City and the Townships and in any area and territory beyond, the municipal boundaries of the City of Pennock and Mamre, St. Johns, Dovre and Arctander Townships that maybe lawfully included within the purview of this Agreement at a later time and date.

Subsection 34.03 Joint Powers Board (referred to as Article 2 in the Resolution)

- A. There is hereby created pursuant to this Agreement a Joint Powers Board, hereinafter referred to as "Board", to be known as the Pennock Fire Department JOINT POWERS BOARD. The governing body of the Joint Powers Board shall consist of the following persons: The City Council of the City of Pennock shall appoint 2 members who must be members of the Pennock City Council and two persons appointed by each of the Townships Board of Supervisors of Mamre, St. Johns, Dovre and Arctander Townships who must be members of Township Boards. The board members shall serve at the pleasure of the governmental unit which appointed the member.

- B. The Joint Powers Board is hereby authorized and commissioned to be the entity to carryon the day to day operation of the fire department, and the first responders unit and to be the owner of all properties, supplies and equipment necessary to carry out the functions, purposes and duties encompassed within this agreement. The City and Townships shall deposit funds with the Board in such amounts and at such times as the Townships and City shall jointly agree and said funds shall be disbursed by the Treasurer of the Fire Department and countersigned by a designated member of the Board of Joint Powers, for the purpose of purchase of supplies and equipment for maintaining the fire department, and first responders unit and its facilities. The board based on the annual budget submitted by the Fire Department will deposit only operating funds with the Fire Department. The department is authorized to disburse those funds for monthly payments as needed to operate the Fire Department. The Joint Powers Board will maintain a separate account and accounting for all funds held for capital purchases. The Joint Powers Board will be required to authorize any capital purchase requests in excess of \$1,000.00. Capital purchases under \$1,000.00 can be authorized by the designated Chairman of the Joint Powers Board.

- C. The Board shall be furnished an accounting of the income and disbursements incurred for the prior year within 30 days of the year end. Said accounting shall also be provided to the City Council and to each Township Board of Supervisors of Mamre, St. Johns, Dovre and Arctander Townships. In addition, any Township or the City can request an accounting at

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any other time. The Books of Account shall be available to inspection by any member at any time.

- D. The Board shall meet annually on the 3rd Saturday of January which shall be considered its annual meeting. The Board shall review and consider budget recommendations of the Pennock Fire Department for the following fiscal year.
- E. The City and Townships, on or before the 15th day of April of each year, shall review and consider budget recommendations of the Board for the following fiscal year. The budget must be approved by majority vote of the governing bodies of the members of this joint powers agreement.

Note: The City of Pennock pays one-third (1/3) of all operating expenses.

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Section 35: Personnel

Subsection 32.01 City Clerk Administrator

- A. **City Clerk Administrator.** The City Clerk Administrator shall be appointed by members of the City Council on a majority vote from a list of persons interested in filling the position.

- B. **City Minutes.** Although the City Clerk Administrator does not have a vote, it shall be the duty of the City Clerk Administrator to be present at each meeting and record the proceedings, to be known as the City Minutes. The City Clerk Administrator shall publish minutes of each meeting in the official City newspaper no later than one month after their approval by the City Council.

- C. **Treasurer.** Pursuant to Minnesota Statutes Section 412.02, Subd. 3, and 412.591, Subd. 2, the offices of Clerk Administrator and Treasurer in the City of Pennock, Kandiyohi County, Minnesota, are hereby combined in the office of City Clerk Administrator. The City Clerk Administrator shall also be responsible for giving the Treasurer's report and other financial information as the Council may request.

- D. The City Clerk Administrator is an employee of the City who shall report directly to the City Council.

CHAPTER V: PUBLIC WORKS & SERVICES

Chapter Contents

Underlined text (example) represents new language
Strikethrough text (~~example~~) represents deleted language

Section 50: Garbage and Rubbish

Section 51: Sewer and Water Regulations

Section 50: Garbage and Rubbish

Section Contents

- Subsection 50.01 Definitions
- Subsection 50.02 Sanitation collection service required
- Subsection 50.03 Container required
- Subsection 50.04 Meddling with trash receptacles prohibited
- Subsection 50.05 Containers to be kept sanitary and secure
- Subsection 50.06 Sanitation service: City options.
- Subsection 50.07 Removal of building materials
- Subsection 50.08 Prohibited acts
- Subsection 50.09 Non-residential customers; container types; collection schedules
- Subsection 50.10 Manner of collection and transportation
- Subsection 50.11 Licensing for collection
- Subsection 50.12 Collection of leaves, trees or tree limbs

Subsection 50.01 Definitions: For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

GARBAGE. Organic refuse resulting from the preparation of food, and decayed and spoiled food from any source.

RUBBISH. All inorganic refuse matter such as tin cans, glass, paper, ashes and the like.

Subsection 50.02 Sanitation Collection Service Required: Every person owning, managing, operating, leasing or renting any premises or any place where garbage or rubbish accumulates shall subscribe to a sanitation collection service. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 50.03 Container Required:

- A. It shall be the duty of every person whose garbage and refuse is collected by the sanitation collection service to provide a container or containers for garbage and refuse, sufficient in size and number to accommodate and securely keep all garbage and refuse that may accumulate between collections. Garbage containers shall be watertight and constructed of a solid and durable grade of metal, plastic, or paper material.
- B. In no event shall containers be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 50.04 Meddling with Trash Receptacles Prohibited:

- A. It shall be unlawful to meddle with garbage cans, trash or rubbish receptacles or in any way pilfer, search or scatter the contents of garbage cans or rubbish receptacles. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.
- B. This section shall not apply to persons authorized by the City or persons authorized by State or Federal law to search or otherwise meddle with trash receptacles.

Subsection 50.05 Containers to be Kept Sanitary and Secure: All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract or breed flies, mosquitoes, or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the City. All containers shall be securely closed in a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents and other animals. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 50.06 Sanitation Service: City Options: The City Council may provide for sanitation collection services within the City by use of City employees and vehicles, or it may grant licenses under the terms and conditions of this Code, or it may contract after advertising with one or more contractors for the provision of these services. Where the City provides for collection by use of City employees and City vehicles, the City shall establish a price structure consistent with State statutes.

Subsection 50.07 Removal of Building Materials: Waste from building operations, rock waste, building materials or other refuse resulting from building or remodeling operations or resulting from a general cleanup of vacant or improved property shall be removed by the building contractor, owner or occupant of the building at his or her own expense. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 50.08 Prohibited Acts:

- A. It shall be unlawful for any person to sweep, throw or deposit any garbage, trash, debris, stagnant water, manure or dead animal into, upon or along any public property or private property of another, except as may be specifically provided by this Chapter.
- B. It shall be unlawful for any person to place garbage in a trash receptacle not owned by the person unless they have permission to do so from the owner.
- C. It shall be unlawful for any person to place in any container any material other than as specifically provided in this Chapter.
- D. It shall be unlawful for any person to deposit or maintain garbage or trash except as provided for by this Chapter.
- E. It shall be unlawful for any person to deposit any burning match, charcoal, ember, or other material in any container used for the disposal of garbage.
- F. Penalty for any of the prohibited acts shall be considered a misdemeanor and as such shall be subject to fines and/or legal action.

Subsection 50.09 Non-Residential Customers; Container Types; Collection Schedules:

- A. It shall be the duty of the owner or person otherwise in charge of multi-family, institutional or industrial premises within the City to cause all garbage and trash accumulated on the premises to be placed in disposable containers or commercial-type containers. Commercial-type containers may be used and may be placed at a location on the premises as arranged between the customer and the collector, but subject to review by the City at any time.
- B. Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.
- C. The amount and character of garbage shall be considered in establishing size of commercial containers and frequency of pickup. The City shall have final authority to establish the size and frequency based on the history of amount and type of garbage generated by the customer. The collection and removal of garbage and trash from premises used for commercial, institutional, or industrial purposes shall be made as often as necessary in order to maintain the premises free of accumulations. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 50.10 Manner of Collection and Transportation:

- A. The collection, removal and disposal of all garbage, trash and brush shall be carried on in a systematic, efficient manner to keep the City in a clean and sanitary condition.
- B. All vehicles used for the collection and transportation of garbage and trash shall be equipped with suitable covers which shall be used to prevent blowing or scattering of refuse while garbage and trash are being transported for disposal. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 50.11 Licensing for Collection:

- A. *Purpose.* In order to provide for a continuous system of refuse collection and disposal in a manner which meets the needs and conveniences of the residents of the City and in order to protect the area from the problems of uncoordinated, unsanitary and improper solid waste disposal, the City Council may determine that it is in the best interests of the residents of the City to require licenses of persons collecting or hauling garbage and rubbish for hire, reserving to the City the right and authority to contract with one or more operators to provide these services.

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- B. *Licensing.* No person may collect or haul garbage or rubbish within the City without first obtaining a written license from the City Council. An application for a license shall be submitted in writing to the City Clerk Administrator, and shall contain the following information:
1. Name and address of the applicant;
 2. Description of the equipment which will be used within the City by the applicant;
 3. A schedule of the rate that will be charged by the applicant for the various categories of customers within the City;
 4. Evidence of compliance with the other applicable sections of the City's Codes.
- C. *Franchise.* The City Council may exercise its reserved right to contract with one or more operators for the collection of garbage and rubbish within the City.
- D. *Suspension of license or contract.* A contract or license issued under the provisions of this section may be revoked or suspended by a majority vote of the City Council for a violation of this Chapter or other applicable regulations of law upon a showing that the contractor or licensee has failed to comply with that regulation.
- E. *Financial responsibility.* The licensee or contractor shall show financial responsibility or a certificate of insurance coverage prior to obtaining the license or franchise whereby each vehicle to be used by the licensee or contractor shall be covered against loss or injury in the following amounts: \$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case; \$1,500,000 for any number of claims arising out of a single occurrence. The licensee or contractor shall hold the City harmless and agrees to defend and indemnify the City, and the City's employees and agents, for any claims, damages, losses, and expenses related to the work under the license or contract. The City shall be named as an additional insured under that insurance for the services provided under the license or contract. The licensee's or contractor's insurance shall be the primary insurance for the City and the licensee or contractor shall provide a certificate of insurance on the City's approved form which verifies the existence of the insurance required, including provisions to hold the City harmless and defend and indemnify the City. The licensee or contractor shall also provide evidence of workers compensation insurance for employees. These insurance policies shall be for the full term of the license or franchise and shall provide for the giving of ten days prior notice to the City of the termination or cancellation of these policies. In case any policies are terminated or cancelled, the license or contract shall be automatically revoked upon receipt by the City Clerk Administrator of the termination or cancellation.

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- F. *Design of equipment.* All trucks or motor vehicles used by the licensee or contractor shall be water-tight so as not to allow the leakage of liquids or refuse while hauling the same and shall be covered with a covering to prevent the scattering of its contents.
- G. *Inspections.* All vehicles used for garbage or rubbish shall be made available for inspection within the City at the times and places as the City Council may designate.
- H. *Bond.* The contractor or licensee may be required to furnish a surety bond in an amount as the City Council deems necessary running to and approved by the City Council, guaranteeing the franchisee's or licensee's faithful and continuous performance of the terms of the franchise, license or contract.
- (I) *Licensee requirements.*
- (1) Licensees must impose charges for the collection of garbage or rubbish consistent with State Statutes, as amended from time to time, that increase with the volume or weight of the garbage or rubbish collected. Licensees must not impose any additional charges on customers who recycle.
- (2) Where a licensee imposes charges by volume instead of weight, the licensee must establish a base unit size for an average small quantity household and offer a multiple pricing system that ensures that the amounts of waste generated in excess of the base unit amount are priced higher than the base unit.

Subsection 50.12 Collection of Leaves, Trees or Tree Limbs: Nothing in this Chapter shall be construed to prevent the collection for hire by other persons of leaves, trees or tree limbs.

Subsection 50.99 Violations and Penalties

Failure to comply with the provisions set forth herein or referred to shall be considered a misdemeanor unless otherwise stated in the Code and/or by state or federal law. The penalties and procedures associated with all violations are set forth in **Chapter 1 Code Provisions** under *Subsection 10.99 General Penalties* and the City's corresponding *Schedule of Fees*.

Section 51: Sewer and Water Regulations

Section Contents

Subsection 51.01	Establishment of Municipal Sewer System
Subsection 51.02	Establishment of Municipal Water System
Subsection 51.03	Connection
Subsection 51.04	Acceptance of Service
Subsection 51.05	Accounts in Name of Property Owner
Subsection 51.06	Billing
Subsection 51.07	Rates
Subsection 51.08	Required Connection

Subsection 51.01. Establishment of Municipal Sewer System: The City of Pennock’s Municipal Sewer System, hereafter referred to as “the Sewer System,” is hereby established.

Subsection 51.02. Establishment of Municipal Water System: The City of Pennock’s Municipal Water System, hereafter referred to as “the Water System,” is hereby established.

Subsection 51.05. Connection: Any person, firm or corporation desiring to connect with and use the municipal sewer or water system, shall make an application to the City.

Subsection 51.04. Acceptance of Service:

- A.** Every person, firm or corporation applying for sewer or water service, every owner of property for which such application is made, and every person, firm or corporation accepting sewer or water service and every owner of property where such service is accepted shall be deemed upon making such application or accepting such service to consent to all the rules, regulations, and rates established by this Ordinance, as amended from time to time.
- B.** Every person owning improved real estate that discharges into the City’s sanitary sewer system shall allow the City to periodically inspect the buildings/property to confirm there are no violations.

Subsection 51.05. Accounts in Name of Property Owner: All sewer and water accounts shall be carried in the name of the property owner. The owner shall be liable for sewer and water supplied to his/her property, whether he/she is occupying the property or not, and any charges unpaid shall be a lien upon the property.

Subsection 51.06. Billing: It shall be the duty of the City Clerk Administrator to monthly bill all users for all sewer and water charges.

Subsection 51.07. Rates. All user and connection rates and fees made by the City shall be identified in the City's *Schedule of Fees* and shall become effective after publication thereof in the City's official newspaper.

Subsection 51.08. Required Connection:

A. All dwellings or business structures that are located near the sewer or water system shall be connected to the sewer and water system. All users of the City sewer or water system shall eliminate the use of subsurface sewage treatment systems (SSTS). Such unused SSTS shall then be pumped free of waste material and shall be filled with clean fill. For the connection of any facility, building or structure to the Pennock sewer or water system, the following conditions shall be met.

1. The applicant shall have certified that all the provisions of this Ordinance with respect to the destruction or removal of any private sewer system have been complied with or that no such system exists on the premises.
2. That the applicant agrees to pay for any additional charges which may be required under this Ordinance.
3. That the applicant has provided or will provide before connection any trap or granted basin which will prevent any wastes from entering the system that are by this Ordinance prohibited from being discharged into the system.
4. That the sewer or water line or lines connecting the building or buildings on his or her premises with the Sanitary Sewer System comply with the Minnesota Plumbing Code in effect at the time the application is filed.
5. That the applicant, owner, occupant, or user of such premises shall be liable for all repairs required to any sanitary sewer lines and infrastructure, as well as installation and maintenance of in-house lift pumps, necessary for connecting and maintaining the connection of the premises to the street mains, including any necessary property repairs.
6. Either that the applicant is the owner of the premises of that he or she has the authority to bind the owner to the conditions of the permit.
7. That the owner shall be liable for any fees, charges or costs of repairs.

- B. In the event an owner shall fail to connect to the sewer or water system after proper notice, the City shall undertake to have the connection made and shall assess the cost thereof against the benefited property. The assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the County Auditor and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Chapter.
- C. All costs and expenses incidental to the installation and connection of properties to the sewer and water system shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.
- D. The City shall retain the right to deny service based upon unreasonable expense.

Subsection 51.09. Extension of Service. Whenever the present sewer system is extended, all structures used for living purposes located on such extensions shall be connected within twelve (12) months from the date the extension is ready for use. All extensions to any dwelling shall be paid by the developer or property owner in full when improvement is completed.

Subsection 51.10. Hook-ups: All connections to the sewer or water system shall be charged a hook-up fee as determined by the **City's Schedule of Fees**. Reconnection to the sewer or water system shall be charged the same connection fee.

Subsection 51.11. Service User Fees: All users of the sewer or water system shall be charged a service fee as determined by the **City's Schedule of Fees**.

Subsection 51.12. Delinquent Accounts:

- A. All charges for water and sewer shall be due on the 20th of each month and shall be considered delinquent if not paid on that date.
- B. Penalties and interest for delinquent accounts may be assessed as established in the City's **Schedule of Fees**.
- C. Whenever any such charges, penalties, or interest is delinquent, the City may shut off water service to such premises. The owner shall pay the connection fee once sewer or water service is restored as established in the City's **Schedule of Fees**.

- D.** Delinquent accounts shall be certified to the City Clerk Administrator who shall prepare an assessment roll each year providing for assessment of the delinquent accounts against the respective properties served. The assessment roll shall be delivered to the council for adoption on or before October 1st of each year for certification to the county auditor for collection along with taxes.

Subsection 51.13 Ordinance Violations: The ordinances, State Statutes, rules and regulations herein and refer to shall be considered a part of the contract with every person, company or corporation whose property is connected with the public sewer or water system. The City reserves the right to discontinue and disconnect the sewer or water system from the property involved if any violations occur. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 51.14 Procedure for Shut-off of Service: Water shall not be shut off for either being delinquent on payment or for being in violation of this Code until notice and an opportunity for a hearing have first been given to the occupant/owner of the premises involved. The notice shall be personally served and shall state that if payment is not made before a date stated in the notice but not less than seven days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the occupant may, before such date, demand a hearing on the matter, in which case the supply will not be cut off until after the hearing is held. If the customer requests a hearing before the due date specified, a hearing shall be held on the matter at the next City Council meeting. The City may shut off the service within 48 hours after the hearing if:

- A. The City Council finds that the amount due by the owner is correct; or
- B. If violations to this ordinance by the owner and/or occupants were made; and
- C. There are no legal reasons why the water supply of the delinquent customer may not be shut off in accordance with this ordinance.

Subsection 51.15 Digging in City Streets. A permit is required to do any digging on City streets or alleys. Any person or company failing to do so shall be held liable for all damage done

Subsection 51.16 Discharge Prohibited. No person shall discharge or cause to be discharged any collected stormwater, groundwater, roof runoff, sump pump, swimming pool, yard drainage, yard fountain, pond overflow, or any other surface water drainage into the sewer or water system. Unpolluted water or waste shall be discharged only to storm sewers or to natural outlets. The City reserves the right to inspect

all properties to ensure this requirement. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 51.17 Control of Sewer and Water System: The Public Works Superintendent, or other official designated by the City Council shall have control and general supervision of the sewer and water system. As such, they are responsible for administering the provisions of this Ordinance to ensure that a proper sewer and water system is maintained.

Subsection 51.18 Tampering with Sewer or Water System: No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewer or water system. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

Subsection 51.19 Cost of Repairing. In addition to any penalties that may be imposed for the violation of any provision of this ordinance, the City may assess against any person the cost of repairing or restoring sewer or water facilities damaged as a result of the discharge of prohibited wastes by that person, and may collect the assessment as an additional charge for the use of the public sewer or water system.

Subsection 51.20 Conformances to State Building and Plumbing Code Requirements:

- A. The size, slopes, alignment, materials of construction of building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the City. Cast iron pipe shall be used for a building sewer laid within 50 feet of any well per Minnesota Public Health department requirements.
- B. The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the City. All connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

Subsection 51.21 Elevation Below Basement Floor: Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

Subsection 51.22 Excavations: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

Subsection 51.23 Licenses:

- A. *Required.* No person shall make a service connection with any public sewer unless regularly licensed under this Chapter to perform the work, and no permit shall be granted to any person except a regularly licensed person.
- B. *Application.* Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Public Works Superintendent for recommendations to the Council. If approved by the Council, the license shall be issued by the City Clerk Administrator upon the filing of a bond as hereinafter provided.
- C. *Issuance.* No license shall be issued to any person until a policy of insurance to the City, approved by the Council, is filed with the City Clerk Administrator conditioned that the licensee will indemnify and save harmless the City from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over that opening to the condition existing prior to installation, adequately guard with barricades and lights, and will keep and maintain the same to the satisfaction of the Public Works Superintendent, and shall conform in all respects to any rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.
- D. *Fee.* The license fee for making service connections shall be as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 50.11 of this Code, as that ordinance may be amended from time to time. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause.
- E. *Suspension or revocation.* The Council may suspend or revoke any license issued under this subchapter for any of the following causes:
 - 1. Giving false information in connection with the application for a license.
 - 2. Incompetence of the licensee.
 - 5. Violation of any provisions of this ordinance or State statutes.

Subsection 51.24 Discharges of Waters or Wastes: No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system.
2. Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities.
3. Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewer or water disposal system.
4. Any wastewater containing toxic pollutants.
5. Any wastewater having a temperature greater than 150 degrees F (65.60 C) or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.
6. Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees C and 65.6 degrees C).
7. Any garbage that is not biodegradable.
8. Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by State or Federal regulations.
9. Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation or ordinance of any regulatory agency, or State or Federal regulation.
10. Any waters or wastes containing BOD₅ or suspended solids of character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works.
11. Any stormwater, groundwater, roof runoff, yard drainage, yard fountain, pond overflow, or similar water.

Subsection 51.25 Industrial Wastes. Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. The structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed at the owner's expense.

Subsection 51.26 Catch Basin or Waste Traps Required. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

Subsection 51.27 Special Agreement and Arrangement: No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern; provided, that National Categorical Pretreatment Standards and the City's NPDES Permit limitations are not violated.

Subsection 51.28 Sewer Service Fund:

- A. The City hereby establishes a "Sewer Service Fund" as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees and assessments intended to retire construction debt. The City also establishes the following accounts as income and expenditure accounts within the sewer service fund:
1. Operation and maintenance account.
 2. Equipment replacement account.
 5. Debt retirement account.
- B. All revenue generated by the sewer service charge system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the City Clerk Administrator separate and apart from all other funds of the City. Funds received by the sewer service fund shall be transferred to the "Operation and Maintenance Account," the "Equipment Replacement Account," and the "Debt Retirement Account" in accordance with State and Federal regulations and the provisions of this Chapter.

- C. Revenue generated by the sewer service charge system sufficient to insure adequate replacement throughout the design life or useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the “Equipment Replacement Account” and dedicated to affecting replacement costs. Interest income generated by the “Equipment Replacement Account” shall remain in the “Equipment Replacement Account”.
- D. Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the “Operation and Maintenance Account.”

Subsection 51.29 DEFINITIONS: For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATION. Those fixed costs attributable to administration of the wastewater treatment works such as billing and associated bookkeeping and accounting costs.

CITY. The area within the corporate boundaries of the City as presently established or as amended by ordinance or other legal actions at a future time. When used herein the term city may also refer to the City Council or its authorized representative.

DEBT SERVICE CHARGE. A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct the facilities.

INCOMPATIBLE WASTE. Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

INDUSTRIAL USERS or INDUSTRIES.

1. Entitles that discharge into a publicly owned wastewater treatment works liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the *Standard Industrial Classification Manual*, latest edition, Office of Management and Budget, as amended and supplemental under one of the following divisions:

- Division A. Agriculture, forestry and fishing
- Division B. Mining
- Division D. Manufacturing
- Division E. Transportation, communications, electric, gas, and sanitary sewers
- Division I. Services

2. For the purpose of this definition, domestic waste shall be considered to have the following characteristics: BOD₅ - less than 287 mg/l; Suspended solids - less than 287 mg/l.
5. Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

MAY. The term is permissive.

OPERATION AND MAINTENANCE. Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer of the treatment works, and at the level of performance for which the treatment works were constructed. The term includes replacement.

OPERATION AND MAINTENANCE COSTS. Expenditures for operation and maintenance, including replacement.

REPLACEMENT. Obtaining and installing of equipment, accessories or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

REPLACEMENT COSTS. Expenditures for replacement.

SANITARY SEWER. A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

SEWER SERVICE CHARGE. The aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users of the City's wastewater treatment facilities.

SEWER SERVICE FUND. A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the sewer service fund will be for operation, maintenance and replacement costs and to retire debt incurred through capital expenditure for wastewater treatment.

SHALL. The term is mandatory.

TOXIC POLLUTANT. The concentration of any pollutant or combination of pollutants as defined in standards issued pursuant to Section 307(a) of the Act (33 USC 13 17(a)), which upon exposure to or assimilation into any organism, will cause adverse effects.

USER CHARGE. A charge levied on a user of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

USERS. Those residential, commercial, governmental, institutional and industrial establishments which are connected to the public sewer collection system.

WASTEWATER. The spent water of a community, also referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.

WASTEWATER TREATMENT WORKS or TREATMENT WORKS. An arrangement of any devices, facilities, structures, equipment or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment.

Subsection 51.30 Administration: The sewer service charge system and sewer service fund shall be administrated according to the following provisions:

- A. The City Clerk Administrator shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of those costs as requested. The City Council shall determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with Subsection 51.113(B). The City shall thereafter, but not later than the end of the year, reassess and as necessary revise the Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

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- B. In accordance with Federal and State requirements, each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to operation, maintenance and replacement.
- C. In accordance with Federal and State requirements, the City Clerk Administrator shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.
- D. Bills for sewer service charges shall be rendered on a monthly, bi-monthly or quarterly basis as designated by Council, succeeding the period for which the service was rendered and shall be due ten days from the date of rendering. Any bill not paid in full 30 days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed at 10% of the original bill and shall be increased the same 10% for every month the bill is outstanding. Disconnection of services for late payment shall follow the procedures established in the Chapter.
- E. The owner of the premises shall be liable to pay for the service to their premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefore to the City.
- F. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger of the wastes, at no expense to the City.

Subsection 51.99 Violations and Penalties

The ordinances, State Statutes, rules and regulations herein and referred to shall be considered a part of the contract with every person, company or corporation whose property is connected with or directly and/or indirectly impacts the public sewer or water system. The City reserves the right to discontinue and disconnect the sewer or water system from the property involved if any violation occurs. Failure to comply with the provisions set forth herein and referred to shall be considered a misdemeanor unless otherwise stated in the Code and/or by state or federal law. The penalties and procedures associated with all violations are set forth in **Chapter 1 Code Provisions** under *Subsection 10.99 General Penalties* and the City's corresponding *Schedule of Fees*.

CHAPTER VII: TRAFFIC CODE

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Underlined text (example) represents new language
Strikethrough text (~~example~~) represents deleted language

Section 70: Traffic Regulations

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GENERAL PROVISIONS

Subsection 70.01 State Highway Traffic Regulations Adopted by Reference:

- A. The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the City and are hereby incorporated in and made a part of this section as completely as if set out in full herein.
- B. The penalty for violation of the provisions of State statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.

Subsection 70.02 Trucks Prohibited on Certain Streets:

- A. As authorized by M.S. § 169.87, as it may be amended from time to time, the City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The Chief of Police shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.
- B. The weight restrictions established in division (A) shall not apply to city or emergency vehicles, public school buses, garbage and refuse trucks making regular collections and are under contract with the city, recycling trucks used exclusively for collection of recycling materials pursuant to a city mandate to provide curbside recycling, and implements of husbandry operated in compliance with M.S. § 169.801, as it may be amended from time to time, and city, county and state road authority vehicles engaged in snow and ice removal or flood control operations on behalf of a state or local government, nor shall the weight restrictions in division (A) apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.
- C. Pursuant to M.S. § 169.832 Subd. 11a, the city may designate by resolution any exclusive city street or highway route or segment of a route to carry gross weights that exceed the limits in (A) provided that such a route may not be designed if it:
 - (1) Creates an undue hazard to traffic safety; or
 - (2) Is inconsistent with structural capacity of the route, including consideration of the volume of traffic expected to occur on the route after designation.

(3) The city may undesignate any route when continued designation is inconsistent with the provisions of this subdivision.

D. Pursuant to M.S. § 169.84, the gross weight of any vehicle or combination of vehicles driven onto or over a bridge on any city street or highway shall not exceed the safe capacity of the bridge, as may be indicated by warning posted on the bridge or the approaches thereto.

E. Pursuant to M.S. § 169.86, M.S. § 169.862 and M.S. § 169.865, the City Clerk may issue a permit for heavier loads to travel on streets where otherwise restricted. The City Clerk may issue such a permit upon applicant provision of adequate insurance, execution of a written agreement to pay the city costs of any repairs the roadway, curbs, ditches and right-of-way necessitated by the permittee's damage to the roadway and to defend and indemnify the city against all claims related to the permittee's use of the roadway, and posting of a bond or other financial security in an amount adequate to cover city expenses, including but not limited to repair costs related to any damage to the road. Any person aggrieved by a permit denial may appeal the denial to the City Council within 30 days of such denial. Permits issued under this provision are good for five consecutive business days. No person, corporation or other entity may obtain more than three permits per year. The permit fee shall be set by the Ordinance establishing fees and charges for the city.

Subsection 70.03 Stop Intersections: The City may designate intersections as a stop intersection and require all vehicles to stop at one or more entrances to those intersections. The City shall post signs at those designated intersections, giving notice of the designation as a stop intersection. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Subsection 70.04 Through Streets and One-Way Streets: The City Council by resolution may designate any street or portion of a street as a through street or one-way street where necessary to preserve the free flow of traffic or to prevent accidents. No trunk highway shall be so designated unless the consent of the Commissioner of Transportation to the designation is first secured. The City shall cause appropriate signs to be posted at the entrance to designated streets. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Subsection 70.05 Turning Restrictions:

A. The City Council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to the designation is first obtained.

B. The City shall mark by appropriate signs any intersection so designated.

C. No person shall turn a vehicle at any intersection contrary to the direction on those signs.

Subsection 70.06 U-Turns Restricted: No person shall turn a vehicle so as to reverse its direction on any street in the business district or at any intersection where traffic is regulated by a traffic control signal.

Subsection 70.07 Excessive Noise:

A. As used in this subsection:

1. **Light-Motor Vehicles** means any automobile, van, motorcycle, motor-driven cycle, motorscooter, go cart, minibike, trail bike, neighborhood electric vehicle, golf cart, mini truck, all terrain vehicle, truck with a gross vehicular weight of less than 10,000 pounds or low power vehicle.
2. **Low Power Vehicle** for the purpose of this section means a vehicle with a gas, electric or battery powered engine that may achieve a maximum vehicle speed of 35 miles per hour.

B. It shall be unlawful for any person to operate, or cause to operate, or use a light-motor vehicle in a manner as to cause, or allow to be caused, excessive noise levels as a result of unreasonable rapid accelerations, deceleration, revving of engine, squealing of tires, honking of horns, or as a result of the operation of audio devices including but not limited to radios, phonograph, tape players, compact disc players or any other sound-amplifying device on or from the light-motor vehicle.

C. No person shall operate, or cause to operate, or use a light-motor vehicle in violation of the noise standards contained in Mm. Rules parts 7030.1050 and 7030.1060, as it may be amended from time to time.

D. No person shall operate, or cause to operate, or use a light-motor vehicle that discharges its exhaust other than through a muffler or other device that effectively prevents loud or explosive noises. No person shall operate, or cause to operate, or use a light-motor vehicle whose exhaust system has been modified, altered, or repaired in any way, including the use of a muffler cut-out or by-pass, that amplifies or otherwise increases noise above that emitted by the light-motor vehicle as originally equipped.

E. The following are exempted from the provisions of this section:

1. Sound emitted from sirens of authorized emergency vehicles;
2. Burglar alarms on light-motor vehicles of the electronic signaling type which also transmit an audible signal to a receiver which can be carried by the owner or operator of the vehicle; and
3. Celebrations on Halloween and other legal holidays and celebrations in connection with duly authorized parades.

Subsection 70.08 Exhibition Driving Prohibited: No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the City in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires or the unreasonable throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

Subsection 70.09 Cruising Prohibited:

- A. As used in this subsection, *Cruising* means the operation of a motor vehicle as defined in M.S. 169.01, Subd. 3, as it may be amended from time to time, past a traffic control point as determined by a peace officer on a street in an area designated a No Cruising Zone by City Council resolution four or more times between the hours of 9:00 p.m. and 3:30 a.m.
- B. The passing of a traffic control point under the conditions previously stated, shall constitute unnecessary repetitive driving and is a violation of this subsection.
- C. The following use of vehicles shall constitute valid exceptions to this prohibition: taxicabs for hire, buses, authorized emergency vehicle, vehicles use used by or under contract with any governmental jurisdiction, any vehicle being used to conduct legitimate business activities.
- D. This subsection may be enforced only in an area that has been posted as a No Cruising Zone. Signs shall be posted at the beginning and the end of any public street, alley or highway, or portion thereof which is a no cruising zone.

Subsection 70.10 Unreasonable Acceleration: No person shall start or accelerate any vehicle with an unnecessary exhibition of speed on any public or private way within the City of Pennock. Prima facie evidence of such unnecessary exhibition of speed shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by tires of said vehicle or both.

Subsection 70.11 Motor Vehicle Noise:

- A. *Definitions.* For the purposes of this section, the following phrases are defined as follows:

ABNORMAL OR EXCESSIVE NOISE.

- (a) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

- (b) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to

time, which requires every motor vehicle to be equipped with a muffler in good working order; or

(c) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

ENGINE-RETARDING BRAKE. A dynamic brake, jake brake, Jacobs brake, C-brake, Paccar brake, transmission brake or other similar engine-retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(C) It shall be unlawful for the operator of any truck to intentionally use an engine-retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(D) Minnesota Statutes §§ 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

(E) Signs stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

Subsection 70.12 Pedestrian Crossings: Pursuant to M.S. § 169.2151, as it may be amended from time to time, the city is authorized to designate pedestrian safety crossings on exclusive city streets where pedestrian safety considerations require extra time for pedestrian crossing in addition to the time recommended under the Minnesota Manual on Uniform Traffic Control Devices for pedestrian signals. The city may provide for timing of pedestrian signals for such crossings, consistent with the recommendations of the uniform manual for pedestrian signal timing at senior citizen and disabled pedestrian crossings. The location of such crossings may be designated by resolution.

Subsection 70.13 Crossings for Seniors or Disabled Persons: Pursuant to M.S. § 169.215, as it may be amended from time to time, the city may designate a crossing for senior citizens or disabled persons on any exclusive city street in the vicinity of a senior citizen housing project, senior citizen nursing home, or residential care facility for disabled persons on the basis of an engineering and traffic investigation prescribed by the Commissioner and subject to the uniform specifications adopted by the Minnesota Commissioner of Transportation.

PARADES

Subsection 70.20 Definitions: For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARADE. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the City.

PARADE PERMIT. A permit required by this subchapter.

PARKING LOT. Any paved or unpaved area used by a place of business or shopping center for the parking of vehicles of their customers, but shall not include those operated for hire.

Subsection 70.21 Permit Required:

- A. No person or persons shall engage or participate in, aid, form or start any parade unless a parade permit has been obtained from the City Clerk or other authorized City official.
- B. This subchapter shall not apply to:
 - 1. Funeral processions;
 - 2. Students going to and from school classes or participating in educational activities; provided, that the conduct is under the immediate direction and supervision of the proper school authorities;
 - 3. A governmental agency acting within the scope of its functions.

Subsection 70.22 Application for Permit:

- A. *Generally.* A person seeking issuance of a parade permit shall file an application with the City Clerk.
- B. *Filing period.* The application for a parade permit shall be filed not less than 72 hours but not more than 60 days before the date on which it is proposed to conduct the parade. Failure to file an application 72 hours in advance will not result in automatic denial of the permit; provided, that the applicant shows reasonable grounds why the application could not be filed 72 hours in advance.

C. *Required information.* The application for a parade permit shall set forth the following information:

1. The name, address, and telephone number of the person seeking to conduct the parade;
2. If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;
3. The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
4. The date when the parade is to be conducted;
5. The route to be traveled, the starting point, and the termination point;
6. The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
7. The hours when the parade will start and terminate;
8. A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed;
9. The location by street of any assembly area for the parade;
10. The time at which units of the parade will begin to assemble at any assembly area or areas;
11. The interval of space to be maintained between units of the parade;
12. If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf;
13. Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.

D. There shall be paid at the time of filing an application for a parade permit a fee in an amount as established in the Ordinance Establishing Fees and Charges pursuant to Subsection 30.11 of this Code, as it may be amended from time to time. In addition, the applicant must provide proof of a valid insurance policy in the amount of \$500,000 for all claims arising from the same event, that names and agrees to defend and indemnify the City from any and all claims arising from the parade.

Subsection 70.23 Standards for Issuance of Permit: The City Clerk shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- B. The conduct of the parade will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City;
- C. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;
- D. The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire;
- E. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

Subsection 70.24 Notice of Rejection of Permit Application: If the City Clerk disapproves the application, he or she shall mail to the applicant within the three regular business days after the date on which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.

Subsection 70.25 Appeal Procedure when Permit Denied: Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

Subsection 70.26 Alternative Permit: The City Clerk or other authorized City official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

Subsection 70.27 Notice to City and Other Officials when Permit Issued: Immediately on the issuance of a parade permit, a copy thereof shall be sent to the Police Chief and the Fire Chief.

Subsection 70.28 Contents of Permit:

- A. Starting time;
- B. Minimum speed;
- C. Maximum speed;

- D. Maximum interval of space to be maintained between the units of the parade;
- E. The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade;
- F. The maximum length of the parade in miles or fractions thereof;
- G. Other information as is reasonably necessary to the enforcement of this subchapter.

Subsection 70.29 Duties of Permittee: A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.

Subsection 70.30 Public Conduct During Parades:

- A. *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- B. *Driving through parades.* No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.
- C. *Parking on parade route.* The Police Chief or other authorized City official shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or other public thoroughfare or part thereof constituting a part of the route of a parade. Signs shall be posted to the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street or other public thoroughfare unless signs have been posted in accordance with this section.

Subsection 70.31 Revocation of Permit: The City shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

Section 71: Parking Regulations

Section Contents

- 71.01 No parking where posted
- 71.02 Limited parking
- 71.03 Other parking restrictions
- 71.04 Snow Season Parking
- 71.05 Declaration of snow emergency; parking prohibited
- 71.06 Parking certain semi-trailers or tractors on public streets prohibited
- 71.07 Overnight parking
- 71.08 Repairing of vehicles
- 71.09 Prohibiting parking areas in front yards in residential zones
- 71.10 Parking and Storage of Certain Vehicles
- 71.11 Impoundment
- 71.12 Prima facie violation

Cross-reference:

Abandoned vehicles, see Chapter 90

Subsection 71.01 No Parking Where Posted:

- A. No person shall stop, stand or park a vehicle upon the public streets of the City at any place where official signs or where appropriate devices, marks, or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibit these acts.
- B. Pursuant to M.S. § 169.041, Subd. 2, the City Police Chief, if any, or the City Council may appoint as many parking enforcement officers as are needed to enforce the provisions of this chapter. The parking enforcement officers shall be subordinate to the Chief of Police, if there is one, or the City Clerk. A **PARKING ENFORCEMENT OFFICER** is an individual whose services are utilized by a law enforcement agency to provide parking enforcement and administrative or clerical assistance and who is not a sworn and licensed police officer. A parking enforcement officer's duties shall not include enforcement of the general criminal laws of the state, and the parking enforcement officer does not have full powers of arrest or authorization to carry a firearm on duty.

Subsection 71.02 Limited Parking: No person shall stop, stand or park a vehicle upon the public streets of the City where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

Subsection 71.03 Other Parking Restrictions: The City Council may by resolution order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where

the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

Subsection 71.04 Snow Season Parking:

A. Restrictions. In order to facilitate snow removal from the public streets and alleys of the City of Pennock, from December 1 through April 1 of each year, no vehicles shall be parked on any public street or alley in said city between the hours of 2:00 a.m. and 8:00 a.m.

B. Enforcement. If any vehicle is parked, abandoned, or left standing in violation of the provisions hereof, the same may be summarily removed without notice to the owner at the direction of the city through its officers, agents and employees. Such summary removal shall be to a place designated by the city and such removed vehicles shall be stored at such designated place until released to the owner or his/her agent upon the following conditions: the owner, or his/her agent shall first pay all costs and expenses incident to the removal, towing and storage of such vehicle, said costs and expenses to be paid to the city clerk, his/her agent, or any other person or firm authorized by the council to receive same. Costs and expenses as herein stated shall mean such expenses as are actually incurred if said removal, towing and storage is performed by someone for hire, or the reasonable cost of said work if same is performed by city employee, as determined from time to time by the city council. Amounts paid by the owner under this section for release of a vehicle shall not be deemed to be a penalty or a fine.

C. Penalty. Violation of this section shall be considered a petty misdemeanor.

Subsection 71.04 Declaration of Snow Emergency; Parking Prohibited:

A. The Mayor, Police Chief or other designated official may declare a snow emergency in the City. The emergency shall continue in effect for a period of 24 hours or until the snow has been removed from the City's streets or until the snow emergency has been rescinded by action of the Mayor or other designated officer.

B. Notice of the declaration of a snow emergency shall be given by notifying the local news media; however, the notification shall be a service aid only and not a duty on the part of the officials.

C. During a declared snow emergency, or after two inches or more of snow have accumulated, no motor vehicle shall be left parked on any street or public way in the City until the declared emergency is canceled or, if no emergency is declared, until the street is cleared on both sides of accumulated snow.

- D. During a declared snow emergency, any police officer or City appointed parking enforcement officer, appointed pursuant to M.S. § 169.041, Subd. 2, who finds a motor vehicle in violation of this section shall attempt to contact the owner of the motor vehicle and require the owner to immediately move the motor vehicle so as not to be in violation of this section. If the owner does not immediately remove the motor vehicle or the owner cannot be located, the police officer or City appointed parking enforcement officer, appointed pursuant to M.S. § 169.041, Subd. 2, is authorized to have the motor vehicle removed at the owner's expense.

Subsection 71.05 Parking Certain Semi-Trailers or Tractors on Public Streets Prohibited: No person shall park a semi-tractor or trailer, or any truck rated with a gross vehicle weight in excess of 10,000 pounds, in any area of the City zoned for residential use or other area designated by City Council resolution except when the vehicle is parked in a completely enclosed garage.

Subsection 71.06 Overnight Parking. The following vehicles shall not be allowed to park on City streets overnight: repair, delivery, rented vehicles with commercial plates and refuse and recycling haulers or any other vehicle not registered as a passenger vehicle.

Subsection 71.07 Repairing of Vehicles: Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on City streets; provided, that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and shall not be permitted on any City street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to City streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the City streets.

Subsection 71.08 Prohibiting Parking Areas in Front Yards in Residential Zones:

- A. The construction, operation or maintaining a parking area, either paved or unpaved, in the front yard of any lot is prohibited in any area zoned for residential use. For the purpose of this section, front yard shall mean and include that area between the sidewalk, or street line in the event there is no sidewalk, and the front line of the principal building, extending in both directions to the side lot lines.
- B. Use of that portion of a vacant lot within 30 feet of the sidewalk lines for parking in an area zoned for residential use is prohibited.

- C. Driveways in any area zoned for residential use shall not exceed 25% of the width at the front or side lot line. Where more than one driveway is desired or required, they shall be at least 50 feet apart.
- D. The front part of any lot shall not be used for the parking of an automobile, truck, trailer, tractor, recreational vehicle, camper, travel trailer, camper top, tent, wagon, boat, boat trailer, storage area or motor home.
- E. No person, being the owner or having control of any building, shall violate or fail to conform to any provision of this section, or fail to obey any lawful order of an officer charged with its enforcement. Each and every day on which any person continues to violate the provisions of this section, after having been notified of the violation, shall constitute a separate offense. This conviction shall not relieve any person from thereafter complying with the provisions of this section, and shall be sufficient cause to refuse further building or land use permits to the offender until a time as the orders have been complied with.

Subsection 71.09 Parking and Storage of Certain Vehicles: Automobile vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property, other than in completely enclosed buildings. No more than three (3) currently licensed automobiles shall be allowed to permanently park unenclosed on any residentially zoned property, without first obtaining a permit and paying a fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time.

NOT IN BASIC CODE

Subsection 71.10 Impoundment: Any police officer or city appointed parking enforcement officer, appointed pursuant to M.S. § 169.041, Subd.2, may order the removal of a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal, street improvements or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this chapter.

Subsection 71.11 Prima Facie Violations: The presence of any motor vehicle on any street when standing or parked in violation of this chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

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Section 72: Truck Route

Section Contents

72.01	Definitions
72.02	Truck travel restricted
72.03	Streets designated for truck use
72.04	Enforcement
72.99	Penalties

Subsection 72.01 Definitions: For the purpose of this Ordinance, the following terms shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural include the singular, the words in the singular include the plural. The word “shall” is always mandatory and not merely directory.

A. “City” is the City of Pennock, Minnesota.

B. “Deviating Truck” is a truck which leaves and departs from a street designated to be used by truck traffic.

C. “Person” is any person, firm, partnership, association, corporation, company or organization of any kind.

D. “Truck” is any vehicle designed or operated for the transportation of property and whose total marked GVW weight, loaded or unloaded, exceeds 15,000 GVW pounds.

E. “Truck Route” is any street, as designated herein, over and along which trucks within the City must operate.

Subsection 72.02 Truck travel restricted: All trucks operating within the City shall be operated only over and along the truck routes established in Subsection 72.03, except that this Ordinance shall not prohibit:

- A. The operation of trucks upon any street where necessary to the conduct of business only at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point; (this exemption does not include the parking or driving of trucks from or to the owner or operator's home in a residential zoned area).
- B. The operation of emergency vehicles upon any street in the City.
- C. The operation of trucks owned or operated by the City, public utilities, any contractor or material man, while engaged in the repair, maintenance, or construction of streets, street improvements or street utilities within the City.
- D. The operation of trucks upon any officially established detour in any case where such truck could be lawfully operated on the street for which such detour is established.

Subsection 72.03 Streets designated for truck use: The following streets or truck routes are hereby established or designated within the City:

- A. All U.S. and State Truck Highways and County Roads as the same are now, or hereafter located within the limits of the City.
- B. Second Street Northwest from Atlantic Avenue to Dakota Avenue
- C. Second Street Northeast from Atlantic Avenue to Dakota Avenue
- D. Second Street Southwest
- E. Park Avenue from Kandiyohi County Road No. 1 to Second Street Southwest
- F. Second Street Southeast.

Subsection 72.04 Enforcement:

- A. The City Engineer shall keep and maintain accurate maps setting out the truck routes or streets upon which truck traffic is permitted and such maps shall be available to the public.
- B. The City Engineer shall cause all truck routes and streets upon which truck traffic is permitted to be clearly sign-posted.
- C. Any police officer shall have the authority to require any person driving or in control of any truck not proceeding over a truck route or street upon which truck traffic is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether this ordinance has been complied with.

D. In addition to the driver or operator, the owner of any truck being operated with his or her permission and consent shall be liable for any violation of the provisions of this Ordinance.

Subsection 72.99 Penalties:

NOT IN BASIC CODE

Section 73: Snowmobiles

Section Contents

- 73.01 Intent
- 73.02 Definitions
- 73.03 Application of traffic ordinances
- 73.04 Restrictions
- 73.05 Stopping and yielding
- 73.06 Persons under 18
- 73.07 Equipment
- 73.08 Unattended snowmobiles
- 73.09 Emergency operation permitted

Subsection 73.01 Intent: It is the intent of this chapter to supplement M.S. §§ 84.81 through 84.91, and M.S. Chapter 169, as these statutes may be amended from time to time and Minn. rules parts 6100.5000 through 6100.6000, as these rules may be amended from time to time, with respect to the

operation of snowmobiles. These statutes and rules are incorporated herein by reference. This section is not intended to allow what the State statutes and rules prohibit, nor to prohibit what the state statutes and rules allow.

Subsection 73.02 Definitions: For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEADMAN THROTTLE or ***SAFETY THROTTLE***. A device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

OPERATE. To ride in or on and control the operation of an all-terrain vehicle or snowmobile.

OPERATOR. Every person who operates or is in actual physical control of an all-terrain vehicle or snowmobile.

OWNER. A person, other than a lien holder having the property in or title to an all-terrain vehicle or snowmobile, or entitled to the use or possession thereof.

PERSON. Includes an individual, partnership, corporation, the State and its agencies and subdivision, and any body of persons, whether incorporated or not.

RIGHT-OF-WAY. The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

ROADWAY. That portion of a highway or street improved, designed or ordinarily used for vehicular travel.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.

STREET. A public thoroughfare, roadway, alley or trail used for motor vehicular traffic which is not an interstate, trunk, county-state aid, or county highway.

Subsection 73.03 Application of Traffic Ordinances: The provisions of Section 70 of this Code shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.

Subsection 73.04 Restrictions:

A. It is unlawful for any person to enter, operate or stop a snowmobile within the limits of the City:

1. On the roadway of any street, except the most right hand lane then available for traffic or as close as practicable to right hand curb or edge of the roadway, except when overtaking and passing another vehicle stopped in the lane or proceeding in the same direction, or in making a

left turn. Snowmobiles may also be operated upon the outside slope of trunk, county-state aid and county highways where the highways are so configured within the corporate limits. The City Council may, pursuant to M.S. § 84.87, Subd. 3, as it may be amended from time to time, adopt a resolution designating certain city streets as available for snowmobile operation and prescribe such time and speed limits as are necessary.

2. On a public sidewalk provided for pedestrian travel.
3. On boulevards within any public right-of-way.
4. On private property of another without specific permission of the owner or person in control of the property.
5. Upon any school grounds, except as permission is expressly obtained from responsible school authorities.
6. On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council, in which case the use shall be lawful, and all-terrain vehicles and snowmobiles may be driven in and out of those areas by the shortest route.
7. On streets as permitted by this chapter at a speed exceeding 10 miles per hour.
8. During the hours of 10:00 p.m. to 7:00 a.m., Sunday through Thursday, and 12:01 a.m. to 8:00 a.m. on other days closer than 100 feet from any residence. This provision is not intended to prohibit snowmobiles from operating on City streets during the hours specified herein.

B. It is unlawful for any person to operate a snowmobile within the limits of the City:

1. So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile; provided, that a disabled snowmobile may be towed to a private residence or a place of business where snowmobiles are repaired without the use of a rigid tow bar.
2. Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation.
3. To intentionally drive, chase, run over or kill any animal.

Subsection 73.05 Stopping and Yielding: No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

Subsection 73.06 Persons Under 18:

- A. No person under 14 years of age shall operate on streets or make a direct crossing of a City street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets as permitted under this chapter and make a direct crossing of those streets only if he or she has in his or her immediate possession a valid safety certificate issued pursuant to M.S. § 84.872, as it may be amended from time to time.
- B. It is unlawful for the owner of a snowmobile to permit the all-terrain vehicle or snowmobile to be operated contrary to the provision of this section.

Subsection 73.07 Equipment: It is unlawful for any person to operate a snowmobile any place within the limits of the City unless it is equipped with the following:

- A. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on an all-terrain vehicle or snowmobile motor.
- B. Brakes adequate to control the movement of and to stop and hold the all-terrain vehicle or snowmobile under any condition of operation.
- C. A safety or so called deadman throttle in operating condition.
- D. When operated between the hours of one-half hour after sunset to one-half hour before sunrise, or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.
- E. Reflective material at least 16 square inches on each side, forward of the handlebars and at the highest practical point on any towed object, so as to reflect lights at a 90 degree angle.

Subsection 73.08 Unattended Snowmobiles: Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him or her.

Subsection 73.09 Emergency Operation Permitted: Notwithstanding any prohibitions in this chapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where conditions render travel by automobile impractical.

Section 74: Recreational and Other Vehicles

Section Contents

- 74.01 Purpose and intent
- 74.02 Definition
- 74.03 Operation requirements
- 74.04 Street crossings
- 74.05 Hours of operation
- 74.06 Minimum equipment requirements
- 74.07 Designation of public areas for use
- 74.08 Motorized golf carts and mini trucks
- 74.09 Mobility devices
- 74.10 Motorized foot scooters
- 74.11 Neighborhood electric vehicles

Subsection 74.01 Purpose and Intent:

A. (1) The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the city.

(2) This chapter is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the Minnesota Statutes expressly allow.

B. It is intended to ensure the public safety and prevent a public nuisance.

Subsection 74.02 Definition: For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ALL-TERRAIN VEHICLE. Any all-terrain vehicle as defined by M.S. § 84.92, as it may be amended from time to time.

RECREATIONAL MOTOR VEHICLE. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes including, but not limited to trail bike, off-highway motorcycle, as defined by M.S. § 84.787, Subd. 7, as it may be amended from time to time, or other all-terrain vehicle as defined by M.S. § 84.92, Subd. 8, as it may be amended from time to time, motorized go-carts, hovercraft or motor vehicle licensed for highway operation which is being used for off-road recreational purposes, but not including golf carts defined by Subsection 74.08, personal electric mobility devices defined by Subsection 74.09, motorized foot scooters defined by Subsection 74.10, neighborhood electric vehicles or medium speed electric vehicle as defined by Subsection 74.11, and mini-trucks defined by Subsection 74.08.

Subsection 74.03 Operating Requirements: It is unlawful for any person to operate a recreational motor vehicle:

- A. On private property of another without specific written permission of the owner of the property; (Written permission may be given by a posted notice of any kind or description, so long as it specifies the kind of vehicles allowed, that the owner, occupant or lessee prefers, such as by saying “Recreational Vehicles Allowed,” “Trail Bikes Allowed,” “All-Terrain Vehicles Allowed” or words substantially similar.)
- B. On publicly-owned land, including school, exclusive city streets, park property, playgrounds, recreation areas and golf courses, except where permitted by this chapter;
- C. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons;
- D. On a public sidewalk or walkway provided or used for pedestrian travel;
- E. At a place while under the influence of intoxicating liquor or narcotics or habit-forming drugs;
- F. At a rate of speed greater than reasonable or proper under all the surrounding circumstances;
- G. At any place in a careless, reckless or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto;
- H. On any public street, highway or right-of-way unless licensed and registered pursuant to Minnesota law;
- I. To intentionally drive, chase, run over or kill any animal, wild or domestic;
- J. By halting any recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others or in a manner so as to endanger or be likely to endanger any person or property or in excess of 25 miles per hour on publicly-owned lands; and/or

K. Within 150 yards of any public recreational area or gathering of people. This provision does not apply to the occasional use of recreational motor vehicles on private property for the purpose of loading or unloading it from a trailer or for mechanically checking it;

L. Without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;

M. Without a functioning stoplight if so equipped;

N. Without a brake operational by either hand or foot;

O. At a speed exceeding ten miles per hour on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter;

P. *Helmet and seat belts required.*

(1) A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the Commissioner of Public Safety.

(2) A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein without wearing a seat belt when such seat belt has been provided by the manufacturer.

Q. *All-terrain vehicles and passengers.*

(1) No person under 18 years of age shall operate a class 1 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a class 1 all-terrain vehicle carrying one passenger. For the purposes of this division a **CLASS 1 ALL-TERRAIN VEHICLE** means an all-terrain vehicle that has a total dry weight of less than 900 pounds.

(2) No person under 18 years of age shall operate a class 2 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a class 2 all-terrain vehicle while carrying a passenger, or up to the number of passengers for which the vehicle was designed, whichever is greater. For the purposes of this division a **CLASS 2 ALL-TERRAIN VEHICLE** means an all-terrain vehicle that has a total dry weight of 900 to 1,500 pounds.

Subsection 74.04 Street crossings:

A. No person under 12 years of age operating the vehicles regulated herein shall make a direct crossing of any street, highway or public right-of-way or operate a vehicle regulated herein on a public street, highway or road right-of-way or operate a vehicle regulated herein on public lands or waters, except that a person at least 10 years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.

B. *Additional restrictions for all-terrain vehicles.* An all-terrain vehicle may make a direct crossing of a public road right-of-way provided:

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;
- (2) The vehicle is brought to a complete stop before crossing the shoulder of main-traveled way of the road;
- (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;
- (4) In crossing a divided road, the crossing is made only at an intersection of the road with another public road; and
- (5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

Subsection 74.05 Hours of Operation: Hours for use are 8:00 a.m. to 10:00 p.m.

Subsection 74.06 Minimum Equipment Requirements:

- A. Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.
- B. Brakes shall be adequate to control the movement of and to stop and hold under any conditions of operation.
- C. At least one clear lamp shall be attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility.

Subsection 74.07 Designation of Public Areas For Use:

A. The Council may designate areas and exclusive city streets for use of recreational motor vehicles by approval of a resolution by a majority of the members of the City Council. The areas designated may be changed from time to time by the City Council. Any area designated shall be published in the official newspaper of the city in a conspicuous place after the approval. If an area is changed, the change shall be published in like manner in the official newspaper of the city. An up-to-date map of any designated park areas open for recreational motor vehicle use shall be kept on file in the office of the City Clerk, who shall provide on request a copy of the map together with the applicable rules, regulations and this chapter to each person requesting the information from the city.

B. Unless designated by the City Council as an area for recreational motor vehicles, the use on city park property and city streets shall be unlawful. Further, the use of city parks designated by the City Council shall be in accordance with all of the applicable provisions of this chapter.

Subsection 74.08 Motorized Golf Carts and Mini Trucks:

A. (1) No person shall operate a motorized golf cart or mini truck on streets, alleys, sidewalks or other public property without obtaining a permit as provided herein.

(2) Every application for a permit shall be made on a form supplied by the city and shall contain the following information:

- (a) The name and address of the applicant;
- (b) The nature of the applicant's physical handicap, if any;
- (c) Model name, make and year and number of the motorized golf cart or mini truck;
- (d) Current driver's license or reason for not having a current license; and
- (e) Other information as the city may require.

(3) The annual permit fee shall be as set forth in the Ordinance Establishing Fees and Charges adopted pursuant to ' Subsection 30.11 of this code, as that ordinance may be amended from time to time.

(4) Permits shall be granted for a period of one year and may be renewed annually January 1 to December 31.

(5) No permit shall be granted or renewed unless the following conditions are met:

- (a) The applicant must demonstrate that he or she currently holds or has held a valid

Minnesota driver's license;

(b) The applicant may be required to submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart or mini truck on the roadways designated;

(c) The applicant must provide evidence of insurance in compliance with the provisions of Minnesota Statutes concerning insurance coverage for the golf cart or mini truck;

(d) The applicant has not had his or her driver's license revoked as the result of criminal proceedings.

(6) Motorized golf carts and mini trucks are permitted to operate only on city streets, not state or federal highways, except to cross at designated intersections.

(7) Motorized golf carts or mini trucks may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

(8) Motorized golf carts or mini trucks shall display the slow-moving vehicle emblem provided for in M.S. § 169.522, as it may be amended from time to time, when operated on designated roadways.

(9) Motorized golf carts or mini trucks shall be equipped with a wing-style rear view mirror to provide the driver with adequate vision from behind.

(10) The operator of a motorized golf cart or mini truck may cross any street or highway intersecting a designated roadway.

(11) Every person operating a motorized golf cart or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Ch. 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts or mini trucks and except as otherwise specifically provided in M.S. § 169.045(7), as it may be amended from time to time.

(12) The City Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this section or M.S. Ch. 169, as it may be amended from time to time, or if there is evidence that the permit holder cannot safely operate the motorized golf cart or mini truck on the designated roadways.

(13) The number of occupants in the golf cart or mini truck may not exceed the design occupant load.

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

DRIVER. The person driving and having physical control over the motorized golf cart or mini truck

and being the licensee.

MOTORIZED GOLF CART. Any passenger conveyance being driven with four wheels with four low pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 800 pounds.

MINI TRUCK. A motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements. A mini truck does not include: a neighborhood electric vehicle or a medium speed electric vehicle as defined by Subsection 74.11; or a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, as it may be amended from time to time.

(C) Authorized city staff may operate city owned motorized golf carts and mini trucks without obtaining a permit within the city on city streets, sidewalks, trails, rights-of-way and public property when conducting city business.

(D) Mini truck equipment requirements:

- (1) A mini truck may be operated under permit on designated roadways if it is equipped with:
 - (a) At least two headlamps;
 - (b) At least two tail lamps;
 - (c) Front and rear turn-signal lamps;
 - (d) An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;
 - (e) A windshield;
 - (f) A seat belt for the driver and front passenger; and
 - (g) A parking brake.

Subsection 74.09 Operation of Electric Personal Assistive Mobility Devices:

A. **ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE** means a self-balancing device with two nontandem wheels, designed to transport not more than one person, and operated by an electric propulsion

system that limits the maximum speed of the device to 15 miles per hour.

B. Except as otherwise provided by law, a person operating an electric personal assistive mobility device has the rights and responsibilities of a pedestrian.

C. *Operation.*

(1) An electric personal assistive mobility device may be operated on a bicycle path.

(2) No person may operate an electric personal assistive mobility device on a roadway, sidewalk, or bicycle path at a rate of speed that is not reasonable and prudent under the conditions. Every person operating an electric personal assistive mobility device on a roadway, sidewalk, or bicycle path is responsible for becoming and remaining aware of the actual and potential hazards then existing on the roadway or sidewalk and must use due care in operating the device.

(3) An electric personal assistive mobility device may be operated on a roadway only;

(a) While making a direct crossing of a roadway in a marked or unmarked crosswalk;

(b) Where no sidewalk is available;

(c) Where a sidewalk is so obstructed as to prevent safe use;

(d) When so directed by a traffic control device or by a peace officer; or

(e) Temporarily in order to gain access to a motor vehicle;

(f) An electric personal assistive mobility device may not be operated at any time on a roadway with a speed limit of more than 35 miles per hour except to make a direct crossing of the roadway in a marked crosswalk;

(g) As provided in division (7) below by Council resolution.

(4) An electric personal assistive mobility device may not be operated at any time while carrying more than one person.

(5) A person operating an electric personal assistive mobility device on a sidewalk must yield the right-of-way to pedestrians at all times. A person operating an electric personal assistive mobility device on a bicycle path must yield the right-of-way to bicycles at all times.

(6) An electric personal assistive mobility device may not be operated unless the device bears reflectorized material on the front, back, and wheels, visible at night from 600 feet when illuminated by the lower beams of headlamps of a motor vehicle.

(7) *Designated exclusive city streets.* The City Council may, by resolution, designate exclusive

city streets within its jurisdiction where the operation of electric personal assistive mobility devices is permissible, provided that no street so designated has a speed limit of more than 35 miles per hour.

Subsection 74.10 Motorized Foot Scooters:

A. ***MOTORIZED FOOT SCOOTER*** means a device with handlebars designed to be stood or sat upon by the operator, and powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion, and that has no more than two 12-inch or smaller diameter wheels and has an engine or motor that is capable of a maximum speed of 15 miles per hour on a flat surface with not more than 1% grade in any direction when the motor is engaged. An electric personal assistive mobility device, a motorized bicycle, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

B. Operation of a motorized foot scooter on city bicycle paths, bicycle lanes, bicycle trails, or bikeways is prohibited except as provided in division (C) below.

C. The City Council may by resolution designate specific bicycle paths, bicycle lanes, bicycle trails, or bikeways as available for use by motorized foot scooters.

D. Every person operating a motorized foot scooter shall have all rights and duties applicable to the operator of a bicycle, except in respect to those provisions relating expressly to motorized foot scooters and in respect to those provisions of law that by their nature cannot reasonably be applied to motorized foot scooters.

E. No person may operate a motorized foot scooter upon a sidewalk, except when necessary to enter or leave adjacent property. No person may operate a motorized foot scooter that is carrying any person other than the operator.

F. No person under the age of 12 years may operate a motorized foot scooter.

G. No person under the age of 18 years may operate a motorized foot scooter without wearing properly fitted and fastened protective headgear that complies with standards established by the Commissioner of Public Safety.

H. A motorized foot scooter must be equipped with a headlight and a taillight that comply with standards established by the Commissioner of Public Safety if the vehicle is operated under conditions when vehicle lights are required by law.

I. A person operating a motorized foot scooter on a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway, except in the following situations;

- (1) When overtaking and passing another vehicle proceeding in the same direction;
- (2) When preparing for a left turn, in which case the operator shall stop and dismount at the right-

hand curb or right edge of the roadway, and shall complete the turn by crossing the roadway on foot, subject to restrictions placed by law on pedestrians; or

(3) When reasonably necessary to avoid impediments or conditions that make it unsafe to continue along the right-hand curb or edge, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes.

Subsection 74.11 Neighborhood Electric Vehicles:

A. Definitions.

(1) ***MEDIUM SPEED ELECTRIC VEHICLE*** means an electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 miles per hour on a paved level surface, is fully enclosed and has at least one door for entry, has a wheelbase of 40 inches or greater and a wheel diameter of ten inches or greater, and except with respect to maximum speed, otherwise meets or exceeds regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

(2) ***NEIGHBORHOOD ELECTRIC VEHICLE*** means an electrically powered motor vehicle that has four wheels, and has a speed attainable in one mile of at least 20 miles per hour but not more than 25 miles per hour on a paved level surface.

B. Operation of neighborhood electric vehicles on city streets is prohibited except as provided in (C) below.

C. *Use on designated exclusive city streets.* The City Council may, by resolution, designate exclusive city streets within its jurisdiction where the operation of neighborhood electric vehicles or medium speed electric vehicles is permissible, provided that no street so designated has a speed limit of more than 35 miles per hour.

D. A neighborhood electric vehicle or a medium-speed electric vehicle may be operated on public streets and highways only if it meets all equipment and vehicle safety requirements in Code of Federal Regulations, title 49, section 571.500, as it may be amended from time to time.

E. Authorized city staff may operate city owned neighborhood electric vehicles and medium speed electric vehicles within the city on city streets, sidewalks, trails, rights-of-way and public property when conducting city business.

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**CHAPTER 75: BICYCLES, ROLLER BLADES, ROLLER SKATES,
ROLLER SKIS AND SKATEBOARDS**

Section

Bicycles

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Roller Blades, Roller Skates, Roller Skis and Skateboards

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BICYCLES

Subsection 54.01 Definition: For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BICYCLE. Every device propelled solely by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices, and including any device generally recognized as a ***BICYCLE*** though equipped with two front or rear wheels.

Subsection 75.02 Traffic Laws Apply: Every person riding a bicycle on a street or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.

Subsection 75.03 Manner and Number Riding:

A. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle, provided that the seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel, or in a seat attached to the bicycle operator.

Penalty, see Subsection 75.99

Subsection 75.04 Hitching Rides: It is unlawful for any person riding upon any bicycle, coaster, roller skates, roller blades, skate board, sled, or toy vehicle to attach the same or themselves to any vehicle upon a street.

Penalty, see Subsection 75.99

Subsection 75.05 Where to Ride:

A. Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

B. Persons riding bicycles upon a street shall not ride more than two abreast except on paths or parts of streets set aside for the exclusive use of bicycles.

Penalty, see Subsection 75.99

Subsection 75.06 Right-of-Way; Sidewalks: Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.

Penalty, see Subsection 75.99

Subsection 75.07 Carrying Articles: It is unlawful for any person operating a bicycle to carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars.

Penalty, see Subsection 75.99

Subsection 75.08 Lighting and Brake Equipment:

A. Every bicycle, when in use at night time, shall be equipped with, or its operator shall carry a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render

clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches on each side of the bicycle or its operator of white reflective material. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Penalty, see Subsection 75.99

Subsection 75.09 Sale with Reflectors: It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed in Subsection 75.08.

Penalty, see Subsection 75.99

ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS

Subsection 75.25 Definitions: For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BUSINESS DISTRICT. That part of the City so designated by council resolution.

OPERATE. To ride on or upon or control the operation of roller blades, roller skates, or a skateboard.

OPERATOR. Every person who operates or is in actual physical control of roller blades, roller skates, or a skateboard.

ROLLER BLADES/ROLLER SKATES. A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.

ROLLER SKIS. A pair of skis platformed with wheels attached which is intended to simulate skiing.

SKATEBOARD. A device for riding-upon, usually while standing, consisting of an oblong piece of wood, or of other composition, mounted on skate wheels.

Subsection 74.26 Unlawful Acts:

A. It is unlawful for any person to operate roller blades, roller skates, roller skis or a skateboard under the circumstances set forth hereafter:

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- (1) On any public sidewalk, street, or public parking lot within the Business District;
 - (2) On private property of another without the express permission to do so by the owner or occupant of the property; or
 - (3) In any careless, reckless, or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person.
- B. It is unlawful for any person operating roller blades, roller skates, roller skis or a skateboard to attach the same, or the person of the operator, to any vehicle upon a street.
- C. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall ride as close as possible to the right-hand curb or edge of the street.
- D. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall observe the same rules of the road as required of bicycles, pursuant to M.S. § 169.222. Penalty, see Subsection 75.99

Subsection 75.27 Right-of-Way: The operator of roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway, or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right-of-way to all vehicles approaching on the street. Penalty, see Subsection 75.99

Subsection 75.28 Hours of Use: It is unlawful for any person to use roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk, or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skis, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle. The reflective material shall be a minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety. Penalty, see Subsection 75.99

Subsection 75.99 Violations: A person apprehended by a peace officer in violation of the provisions of this chapter does, by his or her use of the public sidewalks, streets, and public parking lots, consent to the impoundment by a police officer of the roller blades, roller skates, roller skis or skateboard for a period of three days upon a first offense, a week upon the second offense and 30 days upon a third or additional offense. Any operator aggrieved by the impoundment of his or her roller blades, roller skates roller skis or skateboard may petition the Council for a hearing thereon at the next regular Council meeting following the impoundment. This provision is in addition to the provisions for fines and penalties as set forth in Subsection 10.99.

CHAPTER IX: GENERAL REGULATIONS

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Underlined text (example) represents new language
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GENERAL PROVISIONS

Subsection 90.01 Disposition of Abandoned Property:

A. *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the City shall be disposed of as provided in this section which is adopted pursuant to M.S. 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of Subsection 90.15 et seq.

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- B. *Storage.* The department of the City acquiring possession of the property shall arrange for its storage. If City facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.
- C. *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the City any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.
- D. *Sale.* If the property remains unclaimed in the possession of the City for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk Administrator or his or her designee after two weeks published notice setting forth the time and place of the sale and the property to be sold.
- E. *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the City. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

ABANDONED VEHICLES

Subsection 90.15 Findings and Purpose: M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 90.15 through 90.25 of this Code are adopted under the authority of M.S. 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

Subsection 90.16 Definitions: For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE.

- A. A motor vehicle, as defined in M.S. 169.01 as it may be amended from time to time, that:
 - 1. Has remained illegally:
 - a. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or
 - b. On private property for a period of time, as determined under Subsection 90.18(B), without the consent of the person in control of the property; and

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2. Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
- B. A classic car or pioneer car, as defined in M.S. 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.
- C. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
- D. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

DEPARTMENT. The Minnesota Department of Public Safety.

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

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

JUNK VEHICLE. A vehicle that:

- A. Is three years old or older;
- B. Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- C. Is apparently inoperable;
- D. Does not have a valid, current registration plate; and
- E. Has an approximate fair market value equal only to the approximate value of the scrap in it.

MOTOR VEHICLE or VEHICLE. Has the meaning given motor vehicle in M.S. 169.01, as amended.

MOTOR VEHICLE WASTE. Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

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MPCA or ***AGENCY***. The Minnesota Pollution Control Agency.

NON-PUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

PUBLIC IMPOUND LOT. An impound lot owned by or contracting with a unit of government under Subsection 90.24.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to Subsection 90.18(B), or M.S. 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

UNIT OF GOVERNMENT. Includes a State department or agency, a special purpose district, and a county, statutory or home rule charter City, or town.

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

Subsection 90.17 Violation to Abandon Motor Vehicle: Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor. Penalty, see Subsection 10.99

Subsection 90.18 Authority to Impound Vehicles:

- A. *Abandoned or junk vehicles.* The City Clerk Administrator or his or her designee or any peace officer employed or whose services are contracted for by the City may take into custody and impound any abandoned or junk vehicle.
- B. *Unauthorized vehicles.* The City Clerk Administrator, or his or her designee or any peace officer employed or whose services are contracted for by the City may take into custody and impound any unauthorized vehicle under M.S. 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:
 1. In a public location not governed by M.S. 169.041 as it may be amended from time to time:
 - a. On a highway and properly tagged by a peace officer, four hours;
 - b. Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
 - c. That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

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2. On private property:
 - C. That is single-family or duplex residential property, immediately;
 - D. That is private, nonresidential property, properly posted, immediately;
 - E. That is private, nonresidential property, not posted, 24 hours; or
 - F. That is any residential property, properly posted, immediately.

Subsection 90.19 Sale; Waiting Periods:

- A. *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under Subsection 90.23, 15 days after notice to the owner, if the vehicle is determined to be:
 1. A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
 2. An abandoned vehicle.
- B. *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under Subsection 90.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

Subsection 90.20 Notice of Taking and Sale:

- A. *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the City or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:
 1. Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
 2. Inform the owner and any lienholders of their right to reclaim the vehicle under Subsection 90.21; and
 3. State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under Subsection 90.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Subsection 90.23.
- B. *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification

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purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

- C. *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

Subsection 90.21 Right to Reclaim:

- A. *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the City or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under Subsection 90.19, after the date of the notice required by Subsection 90.20.
- B. *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this State, or the right of a lienholder to foreclose. For the purposes of this section, **GARAGEKEEPER** 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.

Subsection 90.22 Operator's Deficiency Claim; Consent to Sale:

- A. *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:
1. 25 days storage for a vehicle described in Subsection 90.19(A); and
 2. 55 days storage for a vehicle described in Subsection 90.19(B).
- B. *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under Subsection 90.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

Subsection 90.23 Disposition by Impound Lot:

- A. *Auction or sale.*

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1. If an abandoned or unauthorized vehicle and contents taken into custody by the City or any impound lot is not reclaimed under Subsection 90.21, it may be disposed of or sold at auction or sale when eligible pursuant to Subsection 90.20 and 90.21.
 2. 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.
- B. *Unsold vehicles.* Abandoned or junk vehicles not sold by the City or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with Subsection 90.24.
- C. *Sale proceeds; public entities.* From the proceeds of a sale under this section by the City or public impound lot of an abandoned or unauthorized 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 in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the City.
- D. *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

Subsection 90.24 Disposal Authority: The City may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The City may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

Subsection 90.25 Contracts; Reimbursement by MPCA:

- A. *MPCA review and approval.* If the City proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to Subsection 90.24, the MPCA may review the proposed contract before it is entered into by the City, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the City. Where a contract has been approved, the MPCA may reimburse the City for the costs incurred under the contract that have not been reimbursed under Subsection 90.23. Except as otherwise provided in Subsection 90.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all

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persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. Subsection 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

- B. *The City may perform work.* If the City utilizes its own equipment and personnel pursuant to its authority under Subsection 90.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the City may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under Subsection 90.23.
- C. *The City required to contract work.* The MPCA may demand that the City contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the City fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the City, may contract with any person duly licensed by the MPCA for the disposal.

Section 91: Animals

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Subsection 91.01 Definitions: For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

- B. **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch, or stable.

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- C. **NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:
1. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 2. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 3. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 4. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
 5. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
 6. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

ANIMAL SHELTER. Any premises designated by Council for the purpose of impounding and caring for dogs.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

KENNEL. Any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding dogs; provided that this person, partnership or corporation owns, or boards more than two dogs over three months of age.

OFFICER. Any law enforcement officer or person designated by Council to assist in the enforcement of this Ordinance.

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OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk Administrator in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time.

RESTRAINT. A dog shall be deemed to be under restraint if its is on the property of its owner and does not leave property without being under leash and accompanied by a responsible person and under that persons effective control or confined to pen on owner's property.

Subsection 91.02 Dogs and Cats:

- A. *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading Dogs or Cats Prohibited.
- B. *License required.*
1. All dogs over the age of six months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by the City Clerk Administrator upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the State in which the dog is vaccinated.
 2. It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk Administrator the license fee established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time.
 3. Upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time, the Clerk shall issue to the owner a license certificate and

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metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk Administrator. A charge shall be made for each duplicate tag in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the City before the expiration of the license period.

4. The licensing provisions of this division (B) shall not apply to dogs whose owners are non-residents temporarily within the City, nor to dogs brought into the City for the purpose of participating in any dog show, nor shall this provision apply to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.
5. The funds received by the City Clerk Administrator from all dog licenses and metallic tags fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subdivision 30.11 of this Code, as that ordinance may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

C. Cats. Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

D. Vaccination.

1. All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for:
 - a. Rabies - with a live modified vaccine; and
 - b. Distemper.
2. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk Administrator, the Animal Control Officer or a law enforcement officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk Administrator or officer. Failure to do so shall be deemed a violation of this section. Penalty, see Subsection 91.99

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Subsection 91.03 Non-Domestic Animals: Except as provided in M.S. § 346.155, as it may be amended from time to time, it shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City. Any owner of a non-domestic animal at the time of adoption of this Code shall have 30 days in which to remove the animal from the City after which time the City may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition. Penalty, see Subsection 91.99

Subsection 91.04 Farm Animals: Farm animals shall only be kept in an agricultural district of the City, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Subsection 91.05 Impounding:

A. *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or law enforcement officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or law enforcement officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal 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, as provided for in Subsection 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

B. *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

C. *Reclaiming.* For the purposes of this section regular business day means a day during which the

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establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under Subsection 91.11 in which case it shall be kept for seven regular business days or the times specified in Subsection 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this code, as that ordinance may be amended from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

D. *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk Administrator. Penalty, see Subsection 91.99

Subsection 91.06 Kennels:

A. *Definition of kennel.* The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a kennel; except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a kennel.

B. *Kennel as a nuisance.* Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City. Penalty, see Subsection 91.99

Subsection 91.07 Nuisances:

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- 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. Damage to property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.
- C. Cleaning up litter. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.
- D. Other. Any animals kept contrary to this section are subject to impoundment as provided in Subsection 91.05. Penalty, see Subsection 91.99

Subsection 91.08 Seizure of Animals: Any law enforcement officer or Animal Control Officer may enter upon private property and seize any animal provided that the following exist:

- A. There is an identified complainant other than the law enforcement officer or Animal Control Officer making a contemporaneous complaint about the animal;
- B. The officer reasonably believes that the animal meets either the barking dog criteria set out in Subsection 91.07(A); the criteria for cruelty set out in Subsection 91.13; or the criteria for an at large animal set out in Subsection 91.01;
- C. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
- D. The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;
- E. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry; and
- F. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

Subsection 91.09 Animals Presenting a Danger to Health and Safety of City: If, in the reasonable belief of any person or the Animal Control Officer or law enforcement officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under

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Subsection 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the City for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with Subsection 91.05(C).

Subsection 91.10 Diseased Animals:

- A. Running at large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal be properly licensed under this section.
- B. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a law enforcement officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the City, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the City for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
- C. Release. If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge. Penalty, see Subsection 91.99

Subsection 91.11 Dangerous And Potentially 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 (commonly referred to as the “Dangerous 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.

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(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

(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

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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 law enforcement 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 such 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

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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) 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 Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. Such 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 such cancellation;

(c) The owner has paid the annual license fee for dangerous dogs as established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code.

(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

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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 established in the Ordinance to Establish Fees and Charges as it may be amended from time to time.

(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 Administrator 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 possess 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.

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(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 such 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 Subsection 91.11(E);

(5) After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by Subsection 91.11(D)(1)(e);

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

(H) Reclamation. A dog seized under Subsection 91.11(G) 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

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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 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, paragraphs (a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until such 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;

(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 Sheriff's Office and/or hearing officer are authorized to

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order the destruction or other disposition of any dog, after proper notice is given pursuant to Subsection 91.11(J) 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;

(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.

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(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 Subsection 91.11(D), (E) or (F) or similar ordinance in another jurisdiction, or M.S. §§ 347.51, 347.515 or 347.52;

(b) Convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under M.S. § 609.205 (4); or

(c) Convicted of gross misdemeanor harm caused by a dog under M.S. § 609.226, Subd. 1.

(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 Subsection 91.11(J).

(3) If any member of a household is prohibited from owning a dog in ' Subsection 91.11(M)(1) or (2), 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 Subsection 91.11(M)(1) that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Sheriff's Office 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 ' Subsection 91.11(D), (E), or (F) is guilty of a gross misdemeanor.

(3) Any person who violates Subsection 91.11(M), whether an owner or household member, is guilty of a gross misdemeanor.

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Subsection 91.12 Dangerous Animals (Excluding Dogs):

A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to dogs as regulated by Subsection 91.11.

B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

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

(a) Caused bodily injury or disfigurement to any person on public or private property;

(b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(c) Exhibited unusually aggressive behavior, such as an attack on another animal;

(d) Bitten one or more persons on two or more occasions; or

(e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

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

(a) Bitten a human or a domestic animal on public or private property;

(b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

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

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

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 3/4-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 shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

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

(D) Designation as potentially dangerous animal. The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) Evidence justifying designation. The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) Authority to order destruction. The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

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

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

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(G) Procedure. The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk Administrator's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

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

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

(J) Dangerous animal requirements.

(1) Requirements. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(a) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Subsection 91.12(C)(3);

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(b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property;

(c) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(d) If the animal is outside the proper enclosure, the animal must be muzzled (if physically possible depending on the type of animal) and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the animal from biting any person or animal, but will not cause injury to the animal or interfere with its vision or respiration;

(e) The animal shall have a microchip implant as provided by M.S. § 347.515, as it may be amended from time to time;

(f) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(g) If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(2) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(3) *Reclaiming animals.* A dangerous animal seized under Subsection 91.12(J)(2), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under Subsection 91.12(J)(1), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under Subsection 91.12(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under Subsection 91.12 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in Subsection 91.12(G). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Subsection 91.12(J)(3). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under Subsection 91.12(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

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Subsection 91.13 Basic Care

A) All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

B) Dogs and cats. Dogs and cats must be provided the following basic care.

(1) Food. Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

(2) Water. Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

(3) Transportation and shipment. When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

(4) Shelter size. A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

(5) Exercise. All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

(6) Group housing and breeding. Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.

(7) Temperature. Confinement areas must be maintained at a temperature suitable for the animal involved.

(8) Ventilation. An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.

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(9) *Lighting.* An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

(10) *Confinement and exercise area surfaces.* Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

(11) *Drainage.* Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

(12) *Sanitation.* Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

(C) *Birds, rodent other animals.* Basic care provided to pet and companion animal birds, rodents and other shall be consistent with M.S. § 346.40, § 346.41 and §346.42, as those statutes may be amended from time to time.

(D) *Dogs and cats in motor vehicles.*

(1) *Unattended dogs or cats.* A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety.

(2) *Removal of dogs or cats.* A peace officer, as defined in M.S. § 626.84, as it may be amended from time to time, a humane agent, a dog warden, or a volunteer or professional member of a fire or rescue department of the city may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of (D)(1). A person removing a dog or a cat under this division shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

(E) *Dog houses.* A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

(1) *Building specifications.* The shelter shall include a moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against

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cold and dampness and promote retention of body heat.

(2) *Shade.* Shade from the direct rays of the sun, during the months of May to October shall be provided.

(3) *Farm dogs.* In lieu of the requirements of (E)(1) and (E)(2), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

Subsection 91.14 Breeding Moratorium: Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

Subsection 91.15 Muzzling Proclamation: Upon sworn complaint that the owner of a dog which is a continual, habitual barking or crying dog at night, owner can be compelled to muzzle the dog or confine the dog where noise cannot bother others.

Subsection 91.16 Enforcing Officer: The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

Subsection 91.17 Pound: Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

Subsection 91.18 Interference with Officers: No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter. Penalty, see Subsection 91.99

Subsection 91.19 Fighting Animals:

A) The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted herein by reference.

B) No person shall:

(1) Promote, engage in, or be employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in M.S. § 346.36, Subd. 6, as it may be amended from time to time, against another of the same or a different kind;

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(2) Receive money for the admission of a person to a place used, or about to be used, for that activity;

(3) Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) Use, train, or possess a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(5) Purchase a ticket of admission or otherwise gain admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal against another of the same or a different kind.

Subsection 91.20 Feeding Stray Cats and Dogs:

A) Definitions.

(1) FEED or FEEDING means the placing of dog or cat food, or similar food products or consumable materials attractive to dogs and cats, which may result in dogs and cats congregating thereon on a regular basis, placed on the ground, in an obviously intended feeder, or in a feeder at a height accessible to cats and dogs.

(2) STRAY means an unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.

B) Policy and purpose. High populations of stray dogs and cats pose a hazard to human health and safety, as such animals provide a fruitful breeding ground for infectious disease, including but not limited to rabies and distemper, and may otherwise bite or attack humans and domestic animals. In addition, food provided for stray animals is often attractive to wild animals such as raccoons and rodents and may create nuisance conditions such as a rat harborage or other wild animal infestation.

C) No person shall feed or allow the feeding of any stray cat or dog within the city.

D) Exceptions. Veterinarians and persons who, acting within the scope of their employment with any governmental entity non-profit, or humane society has custody of or manages stray dogs and cats are not subject to the prohibitions of this section.

Subsection 91.99 Penalty:

A. Separate offenses. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

B. Misdemeanor. Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in Subsection 10.99.

C. Petty misdemeanor. Violations of Subsections 91.02, 91.07, 91.13 and 91.14 are petty misdemeanors punishable as provided in Subsection 10.99.

Section 92: Health and Safety; Nuisances

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GENERAL PROVISIONS

Subsection 92.01 Assessable Current Services:

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

CURRENT SERVICE. Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. 463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

B. Snow, ice, dirt and rubbish.

1. *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.
2. *Removal by City.* The City Clerk Administrator or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk Administrator or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

C. *Public health and safety hazards.* When the City removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk Administrator.

D. *Installation and repair of water service lines.* Whenever the City installs or repairs water service lines serving private property under Chapter 52 of this Code, the City Clerk Administrator shall keep a record of the total cost of the installation or repair against the property.

E. *Repair of sidewalks and alleys.*

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1. *Duty of owner.* The owner of any property within the City abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk Administrator.
 2. *Inspections; notice.* The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the City will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.
 3. *Repair by City.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk Administrator shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. The City Clerk Administrator shall keep a record of the total cost of the repair attributable to each lot or parcel of property.
- F. *Personal liability.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk Administrator, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk Administrator. If the bill remains unpaid, after notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk Administrator may 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 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under the statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.
- G. *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this Code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount

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shall be collectable by action or as a lien under M.S. 514.67, as it may be amended from time to time.

- H. *Assessment.* On or before September 1 of each year, the City Clerk Administrator shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of 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 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 Subsection 10.99

Subsection 92.02 Tree Diseases and Shade Tree Pest Control:

A) *Declaration of policy.* The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01 and 89.51 through 89.64, as those sections may be amended from time to time, the provisions of this section are adopted to attempt to control and prevent the spread of these shade tree pests.

B) *Jurisdiction.* The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs and other plantings.

C) *Declaration of a shade tree pest.* The Council may declare any vertebrate or invertebrate animal, plant pathogen, or plant threatening to cause significant damage to a shade tree or community forest in the community, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary timelines for action.

D) *Public nuisances declared.* A shade tree pest declared by Council occurring within a declared control zone is a public nuisance.

E) *Shade tree pest nuisances are unlawful.* It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

F) *Definition of control areas.* Upon declaring a shade tree pest, the Council may define one or more locations within the geographic boundaries of the city to be within a shade tree pest control area provided such locations are characterized by biologic, composition, environmental and size factors favorable to successful application of the control measures prescribed by Council.

G) *Tree Inspector.* The Council may appoint a Tree Inspector to coordinate the activities of the city

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relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the duties incident to such a program adopted by the Council. The term **TREE INSPECTOR** includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.

H) Abatement of shade tree pest nuisances.

(1) In abating a nuisance declared by ordinance under divisions (B) and (C), the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to divisions (C) and (K) and (O).

(2) In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway in a rural area within the city's jurisdiction, M.S. § 160.22, as it may be amended from time to time, shall be complied with as necessary.

I) *Reporting discovery of shade tree pest.* Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest as defined under division (C) shall report the same to the city.

J) *Registration of tree care firms.* Any person, firm or corporation that provides tree care, tree trimming or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota Commissioner of Agriculture under M.S. § 18G.07, as it may be amended from time to time.

K) Inspection and application of control measures.

(1) The Tree Inspector is authorized to cause premises and places within the city to be inspected to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector shall have the power to take all reasonable precautions to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the Minnesota Department of Agriculture or the Commissioner of the Minnesota Department of Natural Resources.

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

(3) No person, firm, or corporation shall interfere with the Tree Inspector acting under his authority while engaged in activities authorized by this section.

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L) *Standard abatement procedure.* Except as provided in divisions (M) and (O), whenever a Tree Inspector determines with reasonable certainty that a public nuisance as described by this section is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the following procedure.

(1) The Tree Inspector will notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice must be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Clerk Administrator.

(2) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk Administrator within seven days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(3) If no timely appeal is submitted, and the notice of abatement and its prescribed control measures are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property and carry out abatement in accordance with the notice of abatement.

M) *High cost abatement.* If the Tree Inspector determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the written notice referred to in division (L) must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

N) *Appeal procedure.* If the City Clerk Administrator receives a written request for a hearing on the question of whether a public nuisance in fact exists, the City Council shall hold a hearing within seven calendar days following receipt by the Clerk of the written request. At least three days notice shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

O) *Abatement procedure in event of imminent danger.*

(1) If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following (L) or (M). The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly

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scheduled City Council meeting.

(2) *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.

P) *Recovery of cost of abatement; liability and assessment.*

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk Administrator 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 Administrator.

(2) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk Administrator may 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 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

Q) *Penalty.*

(1) Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

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

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

(4) In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this section, the City Council or any official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

R) *Declared shade tree pests, control measures and control areas.*

(1) *Oak Wilt.* Oak Wilt is declared a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive

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structures of the fungus *Ceratocystis fagacaarum*. Control measures prescribed for abating Oak Wilt Disease are:

(a) *Installation of a root graft barrier.* A root graft barrier can be ordered installed to prevent the underground spread of Oak Wilt Disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with Oak Wilt Disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree.

(b) *Removal and disposal of trees on property zoned for residential and commercial use.* On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum*. After, and in no case before the installation of the root graft barrier and no later than May 1 of the year following infection all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked. If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(c) *Removal and disposal of trees on all other property.* On all other property the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(d) *Wood disposal.* All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying or debarking or chipping or sawing into wane-free lumber or by splitting into firewood, stacking the firewood and immediately covering the woodpile with unbroken 4-mil or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

(e) The control area for Oak Wilt Disease is defined as all lands within the boundaries of the city.

(2) *Emerald Ash Borer.* Emerald Ash Borer is declared a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub or worm-like and live underneath the bark of ash trees.

(a) Control measures prescribed for abating Emerald Ash Borer are those provided in

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the document, *Minnesota Emerald Ash Borer Science Advisory Group Recommendations on Preparing for Emerald Ash Borer in Minnesota*.

(b) *Definition of control areas.* The control area for Emerald Ash Borer is defined as all lands within the boundaries of the city.

(3) *Dutch Elm Disease.* Dutch Elm Disease is declared a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*.

(a) Control measures prescribed for abating Dutch Elm Disease are:

1. *Use of fungicide.* Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.

2. *Removal and disposal of trees.* Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or sawlogs if it is de-barked or covered from April 15 to October 15 with 4mm plastic. The edges of the cover must be buried or sealed to the ground.

(b) *Definition of control areas.* The control area for Dutch elm Disease is defined as all lands within the boundaries of the city.

NUISANCES

Subsections 92.15 Public Nuisance: Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- A. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- B. Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- C. Is guilty of any other act or omission declared by law or Subsections 92.16, 92.17 or 92.18, or any other part of this Code to be a public nuisance and for which no sentence is specifically provided. Penalty, see Subsection 10.99

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Subsection 92.16 Public Nuisances Affecting Health: The following are hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter;
 - B. All diseased animals running at large;
 - C. All ponds or pools of stagnant water;
 - D. Carcasses of animals not buried or destroyed within 24 hours after death;
 - E. Accumulations of manure, refuse or other debris;
 - F. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
 - G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
 - H. All noxious weeds and other rank growths of vegetation upon public or private property;
 - I. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
 - J. All public exposure of people having a contagious disease; and
 - K. Any offensive trade or business as defined by statute not operating under local license.
 - L. Any unnecessary and annoying vibrations.
- Penalty, see Subsection 10.99

Subsection 92.17 Public Nuisances Affecting Morals and Decency: The following are hereby declared to be nuisances affecting public morals and decency:

- A. All gambling devices, slot machines and punch boards, except as otherwise authorized by Federal, State or local law;
- B. Betting, bookmaking and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- D. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the

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purposes of this section **INTOXICATING LIQUOR** shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than ½ % alcohol by volume;

- 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 Subsection 10.99

Subsection 92.18 Public Nuisances Affecting Peace and Safety: The following are declared to be nuisances affecting public peace and safety:

- A. All snow and ice not removed from public sidewalks 12 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. The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.
- H. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this Code or other applicable law;
- I. Radio aerials or television antennae erected or maintained in a dangerous manner;

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- 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 such accumulations, or in a manner which annoys, injures or endangers the comfort or repose of any considerable number of members of the public. Boats, unoccupied trailers and recreational vehicles less than 25 feet in length are permissible if stored in the rear of sideyard or driveway. Storage of boats, unoccupied trailers and recreational vehicles, over 25 feet in length, or the storage of more than one commercial or industrial vehicle or article of equipment is prohibited unless a special use permit is issued by the City Clerk Administrator for such use. The existing uses shall comply with this provision within three (3) months following enactment of this ordinance;
- 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, grass, leaves 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, grass, leaves or other refuse on a public right-of-way or on adjacent private property;
- U. Brawling or fighting;

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- V. Disturbance of an assembly or meeting, not unlawful in its character;
- W. Offensive, obscene, or abusive language or in a boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.
- X. All other conditions or things which are likely to cause injury to the person or property of anyone. Penalty, see Subsection 10.99

Subsection 92.19 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 (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) 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 Subsection 92.99

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Subsection 92.20 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 such 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 Subsection 92.99

Subsection 92.21 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 (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

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.

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(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 Subsection 92.99

Subsection 92.22 Duties of City Officers: The Law Enforcement or Sheriff, if the City has at the time no Law Enforcement, shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Subsection 92.23 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 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.

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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 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 such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the City may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement 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) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (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 Subsection 10.99

Subsection 92.24 Recovery of Cost:

- A. *Personal liability.* The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk Administrator or other official shall prepare a bill for the cost and mail it to the owner.

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Thereupon the amount shall be immediately due and payable at the office of the City Clerk Administrator.

- 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 Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S § 429.101 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 Subsection 10.99

WEEDS

Subsection 92.35 Short Title: This subchapter shall be cited as the Weed Ordinance.

Subsection 92.36 Jurisdiction: This subchapter shall be in addition to any State statute or county ordinance presently in effect, subsequently added, amended or repealed.

Subsection 92.37 Definitions; Exclusions:

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

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

MEADOW VEGITATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds as defined herein.

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

WEEDS, GRASSES and RANK VEGETATION. Includes but is not limited to the following:

1. Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary

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Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip

2. Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;
 3. Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;
 4. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches.
 5. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.
 6. The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.
 7. Any other weed designated by M.S. § 18.77, Subd. 8, Minn. Rules 1505.0730, 1505.0732 or 1505.0750, as they be amended from time to time, as noxious.
- B. In no event shall cultivated plants or crops include plants which have been defined by State statute or administrative rule as being noxious or detrimental plants.

Subsection 92.38 Owners Responsible for Trimming, Removal and the Like:

- A. All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of twelve (12) inches in height.
- B. These provisions shall not apply to an area established with meadow vegetation if:
 1. The prior vegetation is eliminated and the meadow vegetation is planted through transporting or seed by human or mechanical means; and
 2. A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign must be no smaller than ten inches square, no larger than one square foot, and no higher than three feet tall.

Penalty, see Subsection 10.99

Subsection 92.39 Filing Complaint: Any person, including the City, who believes there is property located within the corporate limits of the City which has growing plant matter in violation of this subsection shall make a written complaint signed, dated and filed with the City

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Clerk Administrator. If the City makes the complaint, an employee, officer or Council Member of the City shall file the complaint in all respects as set out above.

Subsection 92.40 Notice of Violations:

- A. Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a Destruction Order to the property owner or the person occupying the property as that information is contained within the records of the City Clerk Administrator or any other City agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.
- B.
 - 1. All notices are to be in writing and all filings are to be with the City Clerk Administrator.
 - 2. Certified mailing to the City Clerk Administrator or others is deemed filed on the date of posting to the United States Postal Service.

Subsection 92.41 Appeals:

- A. The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owners responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.
- B. An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

Subsection 92.42 Abatement by City: In the event that the property owner shall fail to comply with the Destruction Order within seven regular business days and has not filed a notice within 48 hours to the City Clerk Administrator of an intent to appeal, the City Council may employ the services of City employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

Subsection 92.43 Liability:

- A. The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subsection.

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- B. The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the City. If the City uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.
- C. All sums payable by the property owner are to be paid to the City Clerk Administrator and to be deposited in a general fund as compensation for expenses and costs incurred by the City.
- D. All sums payable by the property owner may be collected as a special assessment as provided by M.S. 429. 101, as it may be amended from time to time.

OPEN BURNING

Subsection 92.60 Definitions: For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALLS. The Fire Chief, Fire Marshall, and Assistant Fire Marshalls of the Fire Department which provides fire protection services to the City.

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

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a recreational fire site using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a recreation fire site as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

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RUNNING FIRE. An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

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

VEGETATIVE MATERIALS. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not considered vegetative materials.

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

Subsection 92.61 Prohibited Materials:

- A. No person shall conduct, cause or permit open burning of oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.
- B. No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.
- C. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
- D. No person shall conduct, cause or permit open burning of any leaves or grass clippings.
Penalty, see Subsection 10.99

Subsection 92.62 Permit Required for Open Burning: No person shall start or allow any open burning on any property in the City without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in Subsection 92.60. Penalty, see Subsection 10.99

Subsection 92.63 Purposes Allowed for Open Burning:

- A. Open burn permits may be issued only for the following purposes:
 - 1. Elimination of fire of health hazard that cannot be abated by other practical means.

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2. Ground thawing for utility repair and construction.
3. Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.
4. Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.
5. Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.
6. Running fires.

B. Fire Training permits can only issued by the Minnesota Department of Natural Resources.

C. Permits for the operation of permanent tree and brush burning sites may be issued by the Minnesota Department of Natural Resources (DNR).

Penalty, see Subsection 10.99

Subsection 92.64 Permit Application for Open Burning; Permit Fees:

- A. Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief for reviewing and processing those applications.
- B. An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in the Ordinance Establishing Fees and Charges, authorized by Subsection 30.11, as it may be amended from time to time. Penalty, see Subsection 10.99

Subsection 92.65 Permit Process for Open Burning: Upon receipt of the completed open burning permit application and permit fee, the Fire Chief shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

Subsection 92.66 Permit Holder Responsibility:

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

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- B. The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Law Enforcement, Fire Department, MPCA representative or DNR forest officer.
- C. The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees. Penalty, see Subsection 10.99

Subsection 92.67 Revocation of Open Burning Permit: The open burning permit is subject to revocation at the discretion of DNR forest officer or the Fire Chief. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present. Penalty, see Subsection 10.99

Subsection 92.68 Denial of Open Burning Permit: If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, he may deny the application for the open burn permit.

Subsection 92.69 Burning Ban or Air Quality Alert: No recreational fire or open burn will be permitted when the City or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert. Penalty, see Subsection 10.99

Subsection 92.70 Rules and Laws Adopted by Reference: The provisions of M.S. § 88.16 to 88.22 and the *Minnesota Uniform Fire Code*, Minn. Rules Ch. 1510, as these statutes and rules may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

Subsection 92.71 External Solid Fuel-Fired Heating Devices (Outdoor Wood Burning Stoves)

A) *Definitions.*

(1) **EXTERNAL SOLID FUEL-FIRED HEATING DEVICE.** A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

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(2) ***PERSON.*** An individual, partnership, corporation, company or other association.

(3) ***STACKS OR CHIMNEYS.*** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

B) Requirements for operation.

(1) Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, is declared a public nuisance.

(2) No person may install, use or operate an external solid fuel fired heating device on a lot less than four acres in size.

(3) All stacks or chimneys must be so constructed to withstand high winds or other related elements and in accordance to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 25 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.

(4) All external solid fuel-fired heating devices must be setback a minimum of 50 feet from all property lines.

(5) All external solid fuel-fired heating devices must be setback a minimum of ten feet from any principal or accessory structure.

(C) Fuels.

(1) Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.

(2) The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.

Section 93: Swimming Pools

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Subsection 93.01 Definitions:

PRIVATE RESIDENTIAL SWIMMING POOL. Any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by members of a family or their invited guests. (The design, construction and operation of such pools are not subject to the provisions of this Section.)

PUBLIC SWIMMING POOL. Any swimming pool other than a private residential swimming pool, intended to be used collectively by numbers of persons for swimming or bathing, operated by any persons whether they are the owners, lessees, operators, licensees or concessionaires, regardless of whether a fee is charged for such use.

SWIMMING POOL. Any structure, basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing, more than one hundred (100) square feet in area or over thirty-six (36) inches in depth.

Subsection 93.02 Permits Required:

- A. No permit to construct, alter, remodel or license to operate shall be granted for a public swimming pool unless the pool conforms with the regulations adopted by Subsection 93.03 of this Section, and the Minnesota Department of Health Regulations, as such regulations may be from time to time amended, supplemented or replaced.
- B. No persons shall operate or maintain a public swimming pool unless they have obtained a permit to operate such pool from the City. Such permits shall be obtained by January 1 and shall be valid for one year, unless otherwise revoked for cause. Only persons who comply with this Section shall be entitled to receive and retain such a permit. Such permits are not transferable.
- C. All persons required by this Section to obtain an annual permit to conduct, operate and maintain a public swimming pool shall make application to the City in writing and shall pay an annual license fee per pool set forth in the City's Ordinance Establishing Fees and

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Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time.
Penalty, see Subsection 10.99

Subsection 93.03 Plans and Specifications:

- A. No person shall begin construction of a public swimming pool or shall substantially alter or reconstruct any public swimming pool without first having submitted plans and specifications to the City for review and approval. The plans shall be prepared by an architect or engineer licensed to practice in the State of Minnesota. All plans and specifications shall be submitted in duplicate for the review and approval of the plans and specifications by appropriate departments concerned with such matters as zoning, electrical, structural and plumbing requirements. No permit to construct, alter or renovate shall be issued by the City until approval is granted by the departments involved.
- B. The application for permit to construct or remodel a public swimming pool shall be on such forms as may be prescribed by the City, together with any supporting data as may be required for the proper review of the plans.
- C. The pool and facilities shall be built in accordance with the plans as approved unless approval of changes has been given in writing by the City. The owner or owner's agent shall notify the City at specific predetermined stages of construction and at the time of completion of the pool to permit adequate inspection of the pool and related equipment during and after construction. The pool shall not be placed in operation until such inspections show compliance with the requirements of this Section.
- D. The criteria to be followed by the City in the review and approval of plans shall be as set forth in the Minnesota Department of Health regulations as such regulations may be from time to time amended, supplemented or replaced.
- E. The plans shall be drawn to scale and accompanied by proper specifications so as to permit a comprehensive engineering review of the plans including the piping and hydraulic details and shall include:
 - 1. Plan and sectional views with all necessary dimensions of both the pool and surrounding area.
 - 2. A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system.
 - 3. The specifications shall contain details on all treatment equipment, including catalog identification of pumps, chlorinators and related equipment.

Subsection 93.04 Fence Requirements:

All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a fence or wall. All fence openings or points of entry into the pool area enclosure shall be

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equipped with gates. The fence and gates shall be at least four (4) feet in height and shall be constructed of a minimum number eleven (11) gauge woven wire mesh corrosion-resistant material, or other approved materials. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise inaccessible to small children. All fence posts shall be decay- or corrosion-resistant and shall be set in concrete bases, or other suitable protection. The opening between the bottom of the fence and the ground or other surface shall not be more than four (4) inches. Fencing of above ground pools shall not be required if the pool sides meet the fence height stipulations above and it is provided with a removable ladder.

Subsection 93.05 Health and Safety:

- A. No person having a communicable disease shall be employed or work at a public swimming pool. All patrons or swimmer suspected of having an infectious disease shall be excluded.
- B. Appropriate facilities shall be provided for the safety of bathers as may be required by the City. This shall include lifesaving equipment, safety devices, lifebuoys, lifehooks, first-aid kits, telephone, with adequate staff during swimming periods who are competent in lifesaving and artificial resuscitation. Competent lifeguards shall be on duty during all swimming periods when so ordered by the City or when a use fee is charged.
- C. Every swimming pool shall be under the supervision of a capable individual who shall assume the responsibility for compliance with all parts of this Section relating to pool operation and maintenance and safety of bathers.
- D. When the swimming pool is not open for use, access to the pool shall be prevented.
- E. Not more than the maximum design bather load shall be permitted in the swimming pool at any one time.

Subsection 93.06 Inspections: The City is authorized to conduct such inspections as it deems necessary to ensure compliance with all provisions of this Section and any and all applicable Minnesota Department of Health Regulations, as such regulations may be from time to time amended, supplemented or replaced, and shall have right of entry at any reasonable hour to the swimming pool for this purpose. Authorized City personnel shall bear and display proper credentials and identification prior to entry for inspection.

Subsection 93.07 Operation Regulations:

- A. The operator of each pool shall keep a daily record of information regarding operation, including disinfectant residuals, pH, maintenance procedures, recirculation, together with other data as may be required by the City. This data shall be kept on file by the operator and submitted periodically to the City in accordance with any requirements the City may impose.
- B. The pumps, filter, disinfectant and chemical feeders, and related appurtenances, shall be kept in operation at all times the swimming pool is in use and for such additional purposes as

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needed to keep the pool water clear and of satisfactory bacterial quality. Continuous operation of the recirculation system shall be maintained in swimming pools having a capacity of two hundred thousand (200,000) gallons or more during seasons of regular use.

Subsection 93.08 Denial, Suspension or Revocation of Permits: The Council may deny, suspend or revoke any permit defined in this Section for failure to comply with the regulations or in the event the permit has been obtained through nondisclosure, misrepresentation, or misstatement of material facts.

Subsection 93.99 Penalty: Any person violating any provision of this Section shall, upon conviction, be guilty of a petty misdemeanor and be subject to a fine. Penalty, see Subsection 10.99.

CHAPTER XI: GENERAL OFFENSES

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Section 110: General Offenses

Underlined text (example) represents new language Strikethrough text (example) represents deleted language

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Subsection 110.02 Discharging firearms

Subsection 110.03 Curfew for Minors

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Subsection 110.01 Damage to Property; Graffiti:

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other City property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the City.

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B. Conduct prohibited.

1. It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.
2. It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.
3. The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising there from, including sentencing or collection actions, as provided by law.

C. Removal by owner.

1. Owner's responsibility. It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.
2. Notice to remove graffiti. In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the City that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.
3. List of contractors and cleaning materials. The City may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the City does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the City expressly disclaims responsibility or liability for the quality

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or adequacy of the work or materials or any claims for damage or injury arising there from.

D. Removal by the City.

1. The City shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the City of the presence of the graffiti and of the owner's inability to remove it. Prior to the City entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the City and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the City within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the City harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the City or its employees to remove the graffiti prior to the City commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the City or if the City is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.
2. If the City performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

E. Penalty.

1. Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in Subsection 110.99. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the City.
2. Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in Subsection 110.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

F. Compliance by the City.

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1. It is the intention of the City that graffiti discovered upon City property or public property under the jurisdiction and control of the City will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.
2. A designated City officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving City property and removal efforts by the City. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the City and the cost of the removal. Penalty, see Subsection 110.99

Subsection 110.02 Discharging Firearms:

- A. Shooting upon, over or near a cemetery. No person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.
- B. Hunting near a City park. No person shall hunt, shoot, or kill game within 2 mile of a City park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.
- C. Discharge of firearms prohibited in certain places. No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution.
- D. Discharging firearms on highways prohibited. No person shall discharge a firearm upon or over a public road or highway.
- E. Exceptions. This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper Federal, State or local authorities to discharge a firearm in a manner contrary to the provisions of this section.
- F. If any of the above provisions are found to be in conflict with M.S. 624.717, as it may be amended from time to time, the provisions of that statute shall prevail. Penalty, see Subsection 110.99

Subsection 110.03 Curfew for Minors:

- A. Purpose. The curfew for minors established by this section is maintained for four primary reasons:

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1. To protect the public from illegal acts of minors committed during the curfew hours;
 2. To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
 3. To protect minors from criminal activity that occurs during the curfew hours; and
 4. To help parents control their minor children.
- B. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or PRIMARY CUSTODY. The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

C. Hours.

1. Minors under the age of 16 years. No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m. the following day, official City time.
2. Minors ages 16 years to 18 years. No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12 midnight and 5:00 a.m. the following day, official City time.

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- D. Effect on control by adult responsible for minor. Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.
- E. Exceptions. The provisions of this section shall not apply in the following situations:
1. To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;
 2. To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;
 3. To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.
 4. To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the City, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor.
 5. To a minor who is passing through the City in the course of interstate travel during the hours of curfew.
 6. To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion.
 7. To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the City's designated law enforcement provider about the minor's presence.
 8. To a minor who is married or has been married, or is otherwise legally emancipated.

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- F. Duties of person legally responsible for minor. No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.
- G. Duties of other persons. No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section apply.
- H. Defense. It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the City's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave. Penalty, see Subsection 110.99

Subsection 110.99 Penalty:

- A. Generally. Whoever violated any provision of this chapter for which no other penalty has been established shall be punished as provided in Subsection 10.99.
- B. Curfew penalties.
 - 1. Minors. Any minor found to be in violation of Subsection 110.03 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. 260.185, as it may be amended from time to time.
 - 2. Adults. Any adult person found to be in violation of Subsection 110.03 shall be guilty of a misdemeanor.

CHAPTER XIII: **FRANCHISES**

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Section 130: Franchise Procedures

Underlined text (example) represents new language
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Section 130: Franchise Procedures

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Subsection 130.01 Franchise Required: No municipal corporation, governmental agency or political subdivision other than the City, and no person, corporation, association or other agency or group shall place in, on or over any public street, alley or public property of any kind any utility service, communication line or tube, transportation facility or other service, of permanent or semi permanent nature, without first having obtained a franchise from the City.

Subsection 130.02 Power of the City Council: Only the City Council shall have the power to grant franchises. The Council may impose such regulations and make the franchise subject to such terms, in addition to those herein set forth, as it in its discretion may determine. The franchise privilege and the power of the Council to grant the same shall always be subject to the paramount right of the public in the public streets, alleys or other public property of the City, and the Council shall have the right and the power to regulate and control the exercise by the franchise holder of the franchise privilege, however or whenever acquired.

Subsection 130.03 Limitations: No franchise shall be granted for a term longer than twenty-five (25) years. A franchise may be transferred upon adoption by the Council of a resolution approving the transfer. Such resolution may be adopted only upon an affirmative showing, satisfactory to the Council, by the proposed transferee of moral and financial responsibility, and the execution and filing with the Clerk of an instrument, duly acknowledged, setting forth that the transferee accepts and agrees to perform all of the terms and conditions of the franchise. A franchise may not be granted by emergency ordinance.

Subsection 130.04 Procedure for Grant of Franchise: Application for franchises shall be made upon such forms as may be prescribed by the Council and prepared by the City Clerk under its direction. The ordinance application shall contain all the terms and conditions of the franchise. The procedure for the adoption of franchise ordinances shall be the same as for other

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ordinances, except that before its adoption by the Council it shall be published once each week for two (2) successive weeks, the last publication of which must be at least one (1) week before it is adopted. The ordinance shall not be in effect until the grantee shall have filed with the City Clerk written acceptance of the same and all its terms and conditions.

Subsection 130.05 Conditions: All franchises shall be subject to the following conditions, which shall be incorporated in the text of the ordinance granting the same:

- A. The grantee shall be subject to all the terms and conditions set forth in the ordinance granting the franchise and to all provisions of law, including ordinances of the City that may be applicable to the operation of the franchise privilege;
- B. The grantee shall in no case claim or pretend to exercise any power to fix fares, rates, charges or penalties but all fares, rates, charges and penalties shall in all cases be fixed and determined as provided in this Section;
- C. The Council shall have the right to require reasonable extensions of the public service system operated by the grantee under the franchise and to make such rules and regulations as may be required to secure adequate and proper service and to provide adequate accommodations for the public;
- D. The grantee shall not issue any capital stock on account of the franchise or the value thereon, and the grantee shall have no right to receive, upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value;
- E. Every grant in the franchise of permission to construct facilities in, on or over the public streets, alleys or other public property shall be subject to the conditions that the same be done in such a manner so that the same shall be in as good condition as before and such further conditions as the Council may impose;
- F. Every grant in the franchise of permission to construct such facilities shall be subject to the condition that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health or convenience of the public, without cost to, or reimbursement by, the City.
- G. The grantee shall file with the City Clerk, within a period of three (3) months after the close of its fiscal year, a statement, subscribed and sworn to by some officer or person who knows the facts, setting forth in detail for the fiscal year just closed the then actual cost of the plant or business operated by such grantee, the actual encumbrances, debts and obligations thereon, if any, the amount of stock issued and to whom, the gross earnings, the expenses, the net income and the total amount of outstanding stock of said grantee;
- H. The failure of the grantee to obey the provisions of the law, or the ordinances of the City, or the violation of any of the terms and conditions set forth in or embraced within the franchise

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or the ordinance granting the same shall be a sufficient cause for the forfeiture, cancellation and revocation of the franchise by resolution of the Council.

Subsection 130.06 Regulation of Rates and Charges: All franchise holders shall give courteous, efficient, and adequate service at reasonable rates. A reasonable rate shall be construed to be one which will, with efficient management, normally yield, above all operating expenses and depreciation, a fair return upon all money honestly and efficiently invested in the plant and equipment used by the company in the public service with the City. This shall not be construed as a guarantee of a return and in no case shall there be any return upon franchise value. Within these limits, the determination of a maximum fare, rate, charge, or penalty to be charged by the grantee for service rendered to the City or to any person or persons within the City shall be made, if possible, by direct negotiations between the grantee and the Council at public hearings. In the event that the grantee and the Council shall fail to reach agreement by negotiation, either party may request that the matter be referred to arbitration. The matter shall be determined by one arbitrator appointed by the American Arbitration Association to hear the matter. The party requesting arbitration shall file, with the Minnesota Office of the American Arbitration Association, its request for arbitration, which shall be on forms provided by the American Arbitration Association. The rules of the American Arbitration Association shall govern the arbitration proceeding and the decision of the arbitrator shall be final subject to the right of appeal as provided by Minnesota Law. Each party shall share equally in the payment of the fees charged by the American Arbitration Association. The fare, rate, charge, or penalty fixed, either by negotiation or arbitration, shall be in force for such term as is provided in the franchise or by prior agreement of the parties, but in no event shall the period exceed five (5) years, provided, further, the parties may at any time, by mutual consent, revise any prior agreement or arbitration determination made.

Subsection 130.07 Additional Procedures, Filing Fees: The Council may by ordinance establish such additional procedures not inconsistent with the provisions of this Section to effectuate more fully the provisions of this Section. In addition, all franchise applications shall be accompanied by a filing fee established in the Ordinance Establishing Fees and Charges, adopted pursuant to Subsection 30.11, as may be amended from time to time.