

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ABANDONED PROPERTY

### Section

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### **GENERAL PROVISIONS**

#### **' 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 " 90.15 et seq.

(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 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***

#### **' 90.15 FINDINGS AND PURPOSE.**

M.S. Chapter 168B, and Minnesota Rules Chapter 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. Chapter 168B or Minnesota Rules Chapter 7035, as it may be amended from time to time, the statute or rule shall take precedence.

#### **' 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.***

(1) A motor vehicle, as defined in M.S. ' 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

1. 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

2. On private property for a period of time, as determined under ' 90.18(B), without the consent of the person in control of the property; and

(b) 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.

(2) 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.

(3) 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.

(4) 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:

- (1) Is three years old or older;
- (2) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- (3) Is apparently inoperable;
- (4) Does not have a valid, current registration plate; and
- (5) 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 it may be amended from time to time.

**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.

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

**NONPUBLIC 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 ' 90.24.

**UNAUTHORIZED VEHICLE.** A vehicle that is subject to removal and impoundment pursuant to ' 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.

#### **' 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 ' 10.99

#### **' 90.18 AUTHORITY TO IMPOUND VEHICLES.**

(A) *Abandoned or junk vehicles.* The City 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 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

(2) On private property:

(a) That is single-family or duplex residential property, immediately;

(b) That is private, nonresidential property, properly posted, immediately;

- (c) That is private, nonresidential property, not posted, 24 hours; or
- (d) That is any residential property, properly posted, immediately.

**' 90.19 SALE; WAITING PERIODS.**

(A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under ' 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 ' 90.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

**' 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 ' 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 ' 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 ' 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 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.

#### **' 90.21 RIGHT TO RECLAIM.**

(A) *Payment of charges.* The owner or any lien holder 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 ' 90.19, after the date of the notice required by ' 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 lien holder 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.

#### **' 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 ' 90.19(A); and
- (2) 55 days storage for a vehicle described in ' 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 ' 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.

#### **' 90.23 DISPOSITION BY IMPOUND LOT.**

(A) *Auction or sale.*

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under ' 90.21, it may be disposed of or sold at auction or sale when eligible pursuant to " 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 ' 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 lien holder 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.

**' 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.

**' 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 ' 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 ' 90.23. Except as otherwise provided in ' 90.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. ' 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 ' 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 ' 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.

## CHAPTER 91: STREETS AND SIDEWALKS

### Section

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***USE OF AND INTERFERENCE WITH PUBLIC PROPERTY*****' 91.01 PROHIBITED USE AND INTERFERENCE.**

Unless authorized pursuant to specific provisions of the code, no person shall:

(A) Obstruct or interfere in any manner with the intended use of any street, sidewalk, alley, public land, or public building.

(B) Deposit or cause to be deposited litter upon any public property or in any public building. The term **LITTER** shall include but not be limited to: sawdust; sweepings from any office, house, shop, or store; ashes; shavings; straw; wood; stones; manure or other offensive or unsightly material.

(C) Remove from or damage any material comprising any street, alley, public land, or public building without approval of the Council.

(D) Construct any drain, ditch, or bridge over or upon any street, alley, public land, or public building without approval of the Council.

(E) Place for immediate receipt or delivery any goods, wares, or merchandise upon any public sidewalk unless he or she has provided space upon the sidewalk not less than six feet in width for safe public passage. In no event shall the goods, wares, or merchandise remain upon any sidewalk for more than 24 hours.

(F) Cause any crowd or collection of persons to form which in any manner interferes with the passage of the public upon any street or sidewalk. This provision specifically includes, but is not limited to, licensed auctioneers.

(G) Slide or coast upon any sled or other device used for similar purposes upon any street or sidewalk. Penalty, see ' 91.99

***Cross-reference:***

*Public nuisances affecting peace and safety; obstructions and excavations in streets and sidewalks, see ' 92.04*

**' 91.02 OBSTRUCTION PERMITS.**

In any case where a building or premises abutting any public street or public land is being constructed or repaired, or where other improvements are being made on such premises, the Council may grant a permit to the person constructing the building or making the repairs or improvements to occupy an area up to but not exceeding one-third of the street or one-half of the sidewalk or both abutting the premises while the construction, repair, or improvement is being made. The Council may revoke the permit at any time.

***EXCAVATION, CONSTRUCTION, MAINTENANCE, AND REPAIR*****' 91.15 SIDEWALK, CURB, AND DRIVEWAY WORK; PERMITS.**

No person shall construct, reconstruct, lay, make, or repair any public sidewalk, curb, gutter, or driveway in any dedicated public street in the city unless he or she shall first obtain from the City Administrator a permit for the work. Before issuing a permit, the City Administrator shall obtain from the Director of Public Works detailed specifications regarding the width and depth of the sidewalk, curb and gutter, or driveway, base materials required and type of finish material to be used, and such other specifications as the Director of Public Works shall determine are reasonably necessary to ensure safe, orderly, and uniform construction within the city. The permit shall specifically set forth the requirements for the project as determined by the Director of Public Works, together with a description of the property to be improved thereby.

Penalty, see ' 91.99

**' 91.16 INCONVENIENCE TO PUBLIC.**

All authorized projects shall be prosecuted diligently, completed in a timely manner, and conducted with the minimum public inconvenience practicable.

Penalty, see ' 91.99

**' 91.17 OBSTRUCTION BARRICADING AND LIGHTING.**

No obstruction resulting from construction authorized pursuant to this subchapter shall remain upon any street, sidewalk, or boulevard unless it is barricaded or enclosed and lighted with a red light sufficient to mark the limits of the obstruction and barriers.

Penalty, see ' 91.99

***Cross-reference:***

*Public nuisances affecting peace and safety; unguarded excavations, see ' 92.04*

**' 91.18 DEFECTIVE WORK.**

If any person shall construct, reconstruct, lay, make, or repair any public sidewalk, curb, gutter, or driveway in violation of this subchapter, the Council may cause the sidewalk, curb, gutter, or driveway to be removed and assess the cost of removing same against the abutting property.

**' 91.19 SNOW REMOVAL.**

Every occupant of property and every owner of unoccupied property abutting on a city sidewalk shall keep the sidewalk clear of snow and ice. Any owner or occupant who fails or refuses to remove snow from the sidewalk within 24 hours after notification to do so by the Police or Director of Public Works shall be guilty of a petty misdemeanor.

Penalty, see ' 91.99

***RIGHT-OF-WAY CONSTRUCTION REGULATIONS*****' 91.40 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.**

In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.

**' 91.41 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.**

Minnesota Rules Chapter 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minnesota Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time, are the definitions of the terms used in the following provisions of this subchapter.

**' 91.42 PERMIT REQUIREMENT.**

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) *Excavation permit.* An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minnesota Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by the resolution.

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director of Public Works.

Penalty, see ' 91.99

#### **' 91.43 PERMIT APPLICATIONS.**

Application for a permit shall contain and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(2) The name, address, and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Director of Public Works;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and

equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Director of Public Works be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director of Public Works in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(4) The city may require a copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. ' 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by the resolution, estimated restoration costs, and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or

(4) Franchise fees or other charges as established by resolution, if applicable.

#### **' 91.44 ISSUANCE OF PERMIT; CONDITIONS.**

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the Director of Public Works shall issue a permit.

(B) *Conditions.* The Director of Public Works may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

**' 91.45 PERMIT FEES.**

(A) *Excavation permit fee.* The city shall establish an excavation permit fee as established by resolution in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) *Obstruction Permit Fee.* The city shall establish the obstruction permit fee as established by resolution and shall be in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) *Non-refundable.* Permit fees as established by resolution that were paid for a permit that the Director of Public Works has revoked for a breach as stated in ' 91.53 are not refundable.

(E) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) All permit fees shall be established consistent with the provisions of Minnesota Rules part 7819.100, as it may be amended from time to time.  
Penalty, see ' 91.99

**' 91.46 RIGHT-OF-WAY PATCHING AND RESTORATION.**

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this subchapter.

(B) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the city restore the right-of-way or to have the permittee restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post an agreement holding the City harmless and agree to accept financial responsibility for the restoration.

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule part 7819.1100, as it may be amended from time to time. The Director of Public Works shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director of Public Works, shall correct all restoration work to the extent necessary, using the method required by the Director of Public Works. The work shall be completed within five calendar days of the receipt of the notice from the Director of Public Works, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director of Public Works or fails to satisfactorily and timely complete all restoration required by the Director, the Director of Public Works at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by resolution. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

#### **' 91.47 SUPPLEMENTARY APPLICATIONS.**

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

**' 91.48 DENIAL OF PERMIT.**

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

**' 91.49 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. " 237.162 and 237.163, as they may be amended from time to time.

**' 91.50 INSPECTION.**

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule part 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of Director of Public Works.*

(1) At the time of inspection, the Director of Public Works may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Director of Public Works may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director of Public Works that the violation has been corrected. If proof has not been presented within the required time, the Director of Public Works may revoke the permit pursuant to ' 91.53.

**' 91.51 WORK DONE WITHOUT A PERMIT.**

(A) *Emergency situations.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to

take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

#### **' 91.52 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Director of Public Works of the accurate information as soon as this information is known.

#### **' 91.53 REVOCATION OF PERMITS.**

(A) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited, to the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to ' 91.50.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

#### ' 91.54 MAPPING DATA; INFORMATION REQUIRED.

Each permittee shall provide mapping information required by the city in accordance with Minnesota Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

#### ' 91.55 LOCATION OF FACILITIES.

(A) *Compliance required.* Placement, location, and relocation of facilities must comply with applicable laws, and with Minnesota Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) *Limitation of space.* To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director of Public Works shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director of Public Works shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

**' 91.56 DAMAGE TO OTHER FACILITIES.**

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director of Public Works shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

**' 91.57 RIGHT-OF-WAY VACATION.**

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules part 7819.3200, as it may be amended from time to time.

**' 91.58 INDEMNIFICATION AND LIABILITY.**

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250, as it may be amended from time to time.

**' 91.59 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.**

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Director of Public Works.

**' 91.60 APPEAL.**

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

**' 91.61 RESERVATION OF REGULATORY AND POLICE POWERS.**

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

***NUMBERING OF HOUSES AND BUILDINGS*****' 91.80 DUTY OF OWNERS.**

Each owner of any house or other building suitable for residential or commercial occupancy shall place on every building its proper street number by affixing such numbers in metal, glass, or other material so that same shall be clearly visible from the street. Numbers shall be placed on houses and buildings within 30 days from the time the owners are notified by the City Administrator by mail, publication, telephone, or other means of the numbers to be used. No number shall be less than two inches in height. Structures appurtenant to numbered structures need not be numbered.

Penalty, see ' 91.99

**' 91.81 ASSIGNMENT OF NUMBERS.**

(A) *Assignment of numbers.* Numbers shall be assigned to houses and buildings in the following manner:

(1) All houses and buildings situated within the first block north of Main Avenue on all avenues intersecting with Main Avenue shall be numbered consecutively 100 through 199 inclusive beginning with the first house or building north of Main Avenue; within the second block 200 through 299 inclusive and so on in each succeeding block; and all numbers shall be further identified by adding the word "North" to the name of the avenue.

(2) Houses and buildings located south of Main Avenue on avenues intersecting Main Avenue shall be similarly numbered; provided, however, that the word "South" shall be added to further identify that part of the avenue south of Main Avenue.

(3) On streets intersecting Mill Street, numbers 100 through 199 inclusive shall be used within the first block from Mill Street on either side, 200 through 299 in the second block on either side and so on beginning with the structures nearest Mill Street. The word "Northeast" or "Northwest" shall further identify all streets north of Main Avenue as the case may be; the words "Southeast" and "Southwest" shall further identify all streets south of Main Avenue as the case may be.

(4) North of Main Avenue odd numbers shall be used on the west side of avenues and even numbers on the east side; south of Main Avenue even numbers shall be used on the west side of the avenues and odd numbers on the east side; west of Mill Street even numbers shall be used on the north side of the street and odd numbers on the south side; east of Mill Street even numbers shall be used on the south side of the streets and odd numbers on the north side of the streets.

(5) Within any block, the houses or buildings nearer Main Avenue or Mill Street shall use the smaller numbers. In assigning numbers to houses or buildings between which one or more 25-foot lots lie unimproved, sufficient numbers shall be allowed for later assignment to buildings constructed on the lots.

(B) *Duty of City Administrator.* The City Administrator shall assign numbers, as hereinbefore provided, to every house or other appropriate building in the city. The City Administrator shall at once notify the owners of the houses or buildings by mail, publication, telephone, or other suitable means of the numbers so assigned. Whenever any house or other building is to be erected hereafter, a number shall be assigned at the time the building permit is granted.

Penalty, see ' 91.99

**' 91.99 PENALTY.**

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be punished as provided in ' 10.99.

(B) Whoever shall fail to comply with the provisions of " 91.80 et seq., or whoever shall affix to or display upon any house or building any numbers other than those assigned to it, shall be guilty of a petty misdemeanor; and upon conviction therefore shall be fined not less than \$10 nor more than \$25.



## CHAPTER 92: NUISANCES

### Section

- 92.01 Public nuisance
- 92.02 Public nuisances affecting health
- 92.03 Public nuisances affecting morals and decency
- 92.04 Public nuisances affecting peace and safety
- 92.05 Duties of city officers
- 92.06 Abatement
- 92.07 Recovery of cost

### ' 92.01 PUBLIC NUISANCE.

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

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

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

(C) Is guilty of any other act or omission declared by law or " 92.02, 92.03, or 92.04, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see ' 10.99

### ' 92.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

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

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

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

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

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

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

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

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

Penalty, see ' 10.99

***Cross-reference:***

*Depositing garbage and refuse, see ' 51.02*

*Polluted water, see ' 53.011*

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

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

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

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

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

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

Penalty, see ' 10.99

***Cross-reference:***

*Alcoholic beverages, see Chapter 111*

*Bingo, see ' 112.01 et seq.*

*Gambling, see ' 112.15 et seq.*

*General offenses; alcoholic beverages, see ' 130.50*

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

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

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

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

(C) All wires and limbs of trees or shrubs 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 Minnesota Rules Chapter 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 12 midnight and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(U) All other conditions or things which are likely to cause injury to the person or property of anyone. Penalty, see ' 10.99

***Cross-reference:***

*General offenses; handbills and posters, see ' 130.02*

*Traffic regulations, snow removal periods, see ' 72.08*

*Trees and shrubs, see Chapter 94*

**' 92.05 DUTIES OF CITY OFFICERS.**

The Polk County Sheriff's Office 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.

**' 92.06 ABATEMENT.**

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

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

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

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

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

(B) *Procedure.* Whenever a peace officer or city official determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of 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 or city official 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.

(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 ' 10.99

#### **' 92.07 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 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 Administrator.

(B) *Assessment.* If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City 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 ' 10.99



## CHAPTER 93: ANIMALS

### Section

- 93.01 Definitions
- 93.02 Dogs and cats
- 93.03 Non-domestic animals
- 93.04 Farm animals
- 93.05 Impounding
- 93.06 Kennels
- 93.07 Nuisances
- 93.08 Seizure of animals
- 93.09 Animals presenting a danger to health and safety of city
- 93.10 Diseased animals
- 93.11 Dangerous animals
- 93.12 Dangerous animal requirements
- 93.13 Basic care
- 93.14 Breeding moratorium
- 93.15 Enforcing officer
- 93.16 Pound
- 93.17 Interference with officers
  
- 93.99 Penalty

### ' 93.01 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:

(1) **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.

(2) **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include, but are not limited to, 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, and other animals associated with a farm, ranch, or stable.

(3) **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:

(a) Any member of the large cat family (family felidae) including, but not limited to, lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including, but not limited to, wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

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

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

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including, but not limited to, rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

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

**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.

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

**RELEASE PERMIT.** A permit issued by the City Administrator 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 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 by resolution.

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

(C) *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 Administrator upon payment of the license fee as established by resolution. 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 Administrator the license fee established by resolution.

(3) Upon payment of the license fee as established by resolution, the City Administrator shall issue to the owner a license certificate and 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 Administrator. A charge shall be made for each duplicate tag in an amount established by resolution. 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 Administrator from all dog licenses and metallic tags fees as established by resolution 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.

(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 Administrator, a peace officer or city official, 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 Administrator or officer. Failure to do so shall be deemed a violation of this section.

Penalty, see ' 93.99

**' 93.03 NON-DOMESTIC ANIMALS.**

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 ' 93.99

**' 93.04 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.

**' 93.05 IMPOUNDING.**

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any peace officer or city official 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. In case the owner is unknown, the peace officer or city official 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.* 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 ' 93.11 in which case it shall be kept for seven regular business days or the times specified in ' 93.11, 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 resolution.
- (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 resolution, 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 peace officer or city official appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, 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 Administrator.

Penalty, see ' 93.99

**' 93.06 KENNELS.**

(A) *Definition of kennel.* The keeping of six or more dogs or cats 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 or kittens 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 six or more dogs or cats 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 six or more dogs or cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

Penalty, see ' 93.99

**' 93.07 NUISANCES.**

(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 ' 93.05.

Penalty, see ' 93.99

**' 93.08 SEIZURE OF ANIMALS.**

Any peace officer or city official may enter upon private property and seize any animal provided that the following exist:

(A) There is an identified complainant other than the peace officer or city official making a contemporaneous complaint about the animal;

(B) The peace officer or city official reasonably believes that the animal meets either the barking dog criteria set out in ' 93.07(A); the criteria for cruelty set out in ' 93.13; or the criteria for an at large animal set out in ' 93.01(E);

(C) The peace officer or city official 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 within the City on a prior date;

(D) The peace officer or city official 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.

**' 93.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.**

If, in the reasonable belief of any person or the peace officer or city official, 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 peace officer or city official may apprehend the animal and deliver it to the pound for confinement under ' 93.05. 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 ' 93.05(C).

**' 93.10 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 peace officer or city official. The peace officer or city official 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 ' 93.99

**' 93.11 DANGEROUS ANIMALS.**

(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 an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The peace officer or city official 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:

- (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 13-inches 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 peace officer or city official 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 peace officer or city official 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 peace officer or city official 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 peace officer or city official, 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.

(G) *Procedure.* The peace officer or city official, after having determined that an animal is dangerous, may proceed in the following manner: The peace officer or city official 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 orders issued will stand or the peace officer or city official may order the animal destroyed.

(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 peace officer or City Administrator's office shall be admissible for consideration 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 peace officer or city official 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 peace officer or city official.

(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 peace 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 that has been identified as dangerous or potentially dangerous shall notify the peace officer or city official 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.

Penalty, see ' 93.99

### **' 93.12 DANGEROUS ANIMAL REQUIREMENTS.**

(A) *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:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in ' 93.11(C)(3);

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

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

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

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. ' 347.51 as it may be amended from time to time;

(6) All animals deemed dangerous by the peace officer or city official 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 peace officer or city official .

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

(B) *Seizure.* The peace officer or city official 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.

(C) *Reclaiming animals.* A dangerous animal seized under ' 93.12(B), 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 ' 93.12(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under ' 93.11(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 ' 93.11 with the same animal, the animal must be seized by the peace officer or city official. The owner may request a hearing as defined in ' 93.11(F). If the owner is found to have violated the provisions for which the animal was seized, the peace officer or city official 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 ' 93.12(C). 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 ' 93.11(F) and the owner is liable to the city for the costs incurred in confining, impounding and disposing of the animal.

**' 93.13 BASIC CARE.**

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.

**' 93.14 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.

**' 93.15 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.

**' 93.16 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.

**' 93.17 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 ' 93.99

**' 93.99 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 ' 10.99.

(C) *Petty misdemeanor.* Violations of " 93.02, 93.07, 93.13 and 93.14 are petty misdemeanors punishable as provided in ' 10.99.

**CHAPTER 94: TREES AND SHRUBS**

Section

*General Provisions*

- 94.01 Definitions
- 94.02 Conflicting provisions

*Regulations*

- 94.15 Planting
- 94.16 Public tree care
- 94.17 Powers of city
- 94.18 Removal of trees on private property
- 94.19 Removal of stumps
- 94.20 Damaging plants
- 94.21 Woodpiles

*Administration and Enforcement*

- 94.31 Review by City Council

**GENERAL PROVISIONS**

**' 94.01 DEFINITIONS.**

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

**PARK TREES.** Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city, to which the public has free access as a park.

**STREET TREES.** Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

**' 94.02 CONFLICTING PROVISIONS.**

Where the provisions of this chapter conflict or are inconsistent with any other ordinance or code provision of the city, the provisions of this chapter shall supersede except in instances where one provision is more restrictive than another, in which case the more restrictive shall apply.

***REGULATIONS*****' 94.15 PLANTING.**

(A) *Street tree species to be planted; spacing and distance from curbs.*

(1) Only species deemed suitable for the city's hardiness zone will be considered for new plantings. A list of suitable tree species will be kept by the Director of Public Works with consultation of area nursery professionals and forestry and conservation agency staff members.

(2) Spacing of suitable trees will be determined either with professional landscape assistance or in accordance with approved plans. The planting of trees lying between any lot line and curb line shall be supervised by the Director of Public Works. Property owners desiring to plant one or more trees on the boulevard shall contact the office of the Director of Public Works and request that the proposed locality of the trees be investigated. If the location will permit the normal growth and development of each tree, is consistent with existing plants in the immediate vicinity, and will present no interference with any utility wire, water line, sewer line, transmission line, or other utility line or hazards to traffic or pedestrian safety, the planting will then be recommended by the Director of Public Works or other authorized person.

(B) *Distance from street corners, fireplugs, and utilities.* New street tree plantings shall not be placed closer than ten feet to any street corner, measured from the point of nearest intersection curbs or curb lines.

No street tree shall be planted closer than ten feet to any fireplug. Unless an approved small species, no street trees may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility lines.

Penalty, see ' 10.99

**' 94.16 CLEARANCE AND PRUNING.**

Owners of trees overhanging any street or right-of-way within the city shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. This shall include the clearance and pruning of street trees on public property adjacent to private property, including but not limited to boulevards, etc. The owners shall remove dead, diseased, or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to notify owners of private property containing a tree or shrub of the need for pruning when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. The city shall have the right to prune the trees or shrubs for public safety.

Penalty, see ' 10.99

***Cross-reference:***

*Public nuisances affecting peace and safety; overhanging branches and obstruction of view of traffic, see ' 92.04*

**' 94.17 PUBLIC TREE CARE.**

(A) The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of the public grounds.

(B) The Director of Public Works may remove or seek removal of any tree or plant thereof which is an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing the selection and location of the trees is in accordance with ' 94.15.

**' 94.18 REMOVAL OF TREES ON PRIVATE PROPERTY.**

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when the trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. This shall include the removal of street trees on public property adjacent to private property, including but not limited to boulevards, etc. The Director of Public Works or another designated person will notify in writing the owners of any such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

**' 94.19 REMOVAL OF STUMPS.**

All stumps of street and park trees on public property shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The Director of Public Works or another designated person may notify owners of private property with unsightly or unsafe stumps that removal is recommended.

**' 94.20 DAMAGING PLANTS.**

No person shall injure or destroy any tree, shrub, or other plant, or injure or destroy any turf or sod, set out or planted in or upon any of the parks or parkways of the city or upon that portion of the streets and avenues of the city lying between the curb line and the property lot line.  
Penalty, see ' 10.99

**' 94.21 WOODPILES.**

The stockpiling of wood within the limits of the city shall be permitted if piled in an orderly and neat fashion and not less than three feet from any property line. Any wood not stockpiled in an orderly and neat fashion must then be removed and disposed of as provided by this chapter and the regulations incorporated thereby.  
Penalty, see ' 10.99

***ADMINISTRATION AND ENFORCEMENT*****' 94.31 REVIEW BY CITY COUNCIL.**

The City Council shall have the right to review the conduct, acts, and decisions of the Director of Public Works or other persons.



## CHAPTER 95: AIRPORT

### Section

- 95.01 Adoption of state and federal law
- 95.02 Aircraft to be attended
- 95.03 Aircraft to be secured
- 95.04 Taxiing
- 95.05 Taxi strips
- 95.06 Check-out
- 95.07 Safe operation
- 95.08 Take-off
- 95.09 Pattern and landing
- 95.10 Right-of-way
- 95.11 Airport area
- 95.12 Pattern entry restriction
- 95.13 Pilots

- 95.99 Penalty

### ***Cross-reference:***

*Airport Commission, see ' 33.17*

*City Council; authority over airport buildings, see ' 31.03*

### **' 95.01 ADOPTION OF STATE AND FEDERAL LAW.**

All pertinent parts of the Federal Civil Air Regulations and State of Minnesota Department of Aeronautics Regulations, Minnesota Rules parts 8800.1300 to 8800.2500, as they may be amended from time to time, are hereby adopted and incorporated by reference in the code and shall apply to all aircraft using the city airport.

### **' 95.02 AIRCRAFT TO BE ATTENDED.**

No aircraft shall be left unattended while its engine is running.  
Penalty, see ' 95.99

**' 95.03 AIRCRAFT TO BE SECURED.**

All aircraft parked outside of hangars shall be securely tied down when not in use.  
Penalty, see ' 95.99

**' 95.04 TAXIING.**

Aircraft taxiing shall do so in a safe manner, yielding to aircraft landing or taking off.  
Penalty, see ' 95.99

**' 95.05 TAXI STRIPS.**

No aircraft shall land on or take off from a taxi strip.  
Penalty, see ' 95.99

**' 95.06 CHECK-OUT.**

Aircraft check-out shall be performed while parked at a 45° angle on the downwind end of the runway.  
Penalty, see ' 95.99

**' 95.07 SAFE OPERATION.**

No aircraft shall travel upon a runway, land, or take off unless the pilot has taken such action as may be necessary to insure that same may be accomplished safely.  
Penalty, see ' 95.99

**' 95.08 TAKE-OFF.**

All aircraft taking off shall fly in a straight line from the end of the runway and shall climb to 400 feet above ground level. The aircraft shall then turn 90° to the left, climb to 600 feet and depart the airport pattern, maintaining the same heading until safe change of course can be made.  
Penalty, see ' 95.99

**' 95.09 PATTERN AND LANDING.**

All aircraft shall use a left-hand traffic pattern. All aircraft entering the airport pattern shall enter at 45° to and at the center of the downwind runway, fly the downwind leg parallel to the runway at 800 feet above ground level, make a 90° left-hand turn into the base leg and make a 90° turn into the final approach. The turn into the final approach shall be made at least 1,000 feet beyond the downwind end of the runway.  
Penalty, see ' 95.99

**' 95.10 RIGHT-OF-WAY.**

When landing, the aircraft at the lowest altitude in the landing pattern has the right-of-way.  
Penalty, see ' 95.99

**' 95.11 AIRPORT AREA.**

The Fertile Municipal Airport area will extend out in a three-mile radius from the center of the airport.

**' 95.12 PATTERN ENTRY RESTRICTION.**

No aircraft shall be in the traffic pattern except as may be necessary to land or take off.  
Penalty, see ' 95.99

**' 95.13 PILOTS.**

(A) *Certificates.* All pilots operating an aircraft on or about the airport shall carry a properly endorsed pilot certificate.

(B) *Student pilots.* Student pilots shall not carry passengers.

(C) *Private pilots.* Private pilots shall not fly for hire.  
Penalty, see ' 95.99

**' 95.99 PENALTY.**

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and punished in accordance with ' 10.99.

## CHAPTER 96: FAIR HOUSING

### Section

#### *General Provisions*

- 96.01 Policy
- 96.02 Definitions

#### *Regulations*

- 96.15 Prohibited discrimination

#### *Administration and Enforcement*

- 96.25 Enforcement generally
- 96.26 Statute of limitations
- 96.27 Civil enforcement procedure
  
- 96.99 Penalty

### **GENERAL PROVISIONS**

#### **' 96.01 POLICY.**

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

**' 96.02 DEFINITIONS.**

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

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

***DISCRIMINATE* or *DISCRIMINATION.*** Includes segregate or separate.

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

***REGULATIONS*****' 96.15 PROHIBITED DISCRIMINATION.**

It is an unlawful discriminatory practice and unlawful:

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

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

(C) For any person engaged in the business of financing the purchase, rehabilitation, remodeling, or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide such financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age, or disability of the applicant or because of the location of the unit or units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age, or disability; or to discriminate by treating differently any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban area because of social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state, or local governmental units or agencies however structured or authorized to upgrade or improve in any manner a specific urban area shall not be deemed to be a violation of this subdivision.

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

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

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

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

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

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

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

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

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

(2) The rental by an owner or occupier of a one-family accommodation in which he or she resides of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance, or disability. Nothing in this section shall be construed to require any person or group of persons selling, renting, or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract.

Penalty, see ' 96.99

### ***ADMINISTRATION AND ENFORCEMENT***

#### **' 96.25 ENFORCEMENT GENERALLY.**

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

#### **' 96.26 STATUTE OF LIMITATIONS.**

No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the city within 180 days from the occurrence of the practice.

#### **' 96.27 CIVIL ENFORCEMENT PROCEDURE.**

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

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

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

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

(D) Hearings shall be before the Council.

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

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

**' 96.99 PENALTY.**

Every person who violates a section, subdivision, paragraph, or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

***Cross-reference:***

*General penalty, see ' 10.99*

