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CODE OF ORDINANCES  
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**10. RULES OF CONSTRUCTION; GENERAL PENALTY**



## **CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY**

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### **§ 10.01 TITLE OF CODE.**

(A) All ordinances of a permanent and general nature of the City of Plato, hereinafter “City”, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Plato City Code”, for which designation “code of ordinances”, “codified ordinances” or “code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the "traffic code". Sections may be referred to and cited by the designation "§" followed by the number, such as "§ 10.01". Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

#### § 10.02 RULES OF INTERPRETATION.

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

(B) *Specific rules of interpretation.* The construction of all ordinances of the City of Plato shall be by the following rules, unless that construction is plainly repugnant to the intent of the Council or of the context of the same ordinance.

(1) *AND or OR.* Either conjunction shall include the other as if written "and/or", whenever the context requires.

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

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

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

#### § 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

#### § 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

**CITY.** The City of Plato, Minnesota. The term **CITY**, when used in this code, may, in the appropriate context, also be used to refer to the Council and its authorized representatives.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This City code as modified by amendment, revision and adoption of new titles, chapters or sections.

**COUNCIL.** The legislative and governing body of the City.

**COUNTY.** McLeod County, Minnesota.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath and, in those cases, the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT.** An officer, office, employee, commission or department of the City unless the context clearly requires otherwise.

**PERSON.** Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER**, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**SHALL.** The act referred to is mandatory.

**SIGNATURE or SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of Minnesota.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

**WRITTEN.** Any representation of words, letters or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed.

#### **§ 10.06 SEVERABILITY.**

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

#### **§ 10.07 REFERENCE TO OTHER SECTIONS.**

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

#### **§ 10.08 REFERENCE TO OFFICES.**

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

#### **§ 10.09 ERRORS AND OMISSIONS.**

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.10 OFFICIAL TIME.**

The official time, as established by applicable state and federal laws, shall be the official time within the City for the transaction of all City business.

**§ 10.11 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, *REASONABLE TIME OR NOTICE* shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

**§ 10.12 ORDINANCES REPEALED.**

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

**§ 10.13 ORDINANCES UNAFFECTED.**

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

**§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the Council requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

**§ 10.15 REPEAL OR MODIFICATION OF ORDINANCES.**

(A) Whenever an ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No action, suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

#### **§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the Council desires to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

#### **§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

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

#### **§ 10.18 COPIES OF CODE.**

The official copy of this code shall be kept in the office of the City Clerk-Treasurer for public inspection. The Clerk-Treasurer shall provide a resident of Plato with a copy for a reasonable charge.

#### **§ 10.19 ADOPTION OF STATUTES, ORDINANCES AND RULES AND SUPPLEMENTS BY REFERENCE.**

(A) It is the intention of the Council that all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference as

if they had been in existence at the time this code was adopted, unless there is a clear intention expressed in the code to the contrary.

(B) It is the intention of the Council that all future amendments to any statutes, ordinances and rules adopted by reference in this code are hereby adopted by references as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(C) It is the intention of the Council that all future supplements are hereby adopted as if they had been in existence at the time this code was enacted, unless there is clear intention expressed in the code to the contrary.

**§ 10.20 ENFORCEMENT.**

(A) Any licensed peace officer serving as the McLeod County Sheriff or any Deputy Sheriff shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk-Treasurer shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk-Treasurer or Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

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

(D) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk-Treasurer, peace officer or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only. No warrant shall be issued unless there is probable cause to issue the warrant.

(E) Every licensee, owner, resident or other person in control of property within the City shall permit at reasonable times inspections of or entrance upon the property by the City Clerk-Treasurer or any other authorized City officer or employee to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance upon the property shall be grounds for termination of any and all permits, licenses or City service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the

grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Clerk-Treasurer to object to the termination before it occurs, further subject to appeal of the Clerk-Treasurer's decision to the Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

#### **§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.**

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20 of this chapter, the Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. The resolution may not proscribe administrative penalties for traffic offenses designated by M.S. § 169.999, as it may be amended from time to time.

(B) These administrative penalty procedures in this section are intended to provide the public and the City with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the Council. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) In the discretion of the peace officer, City Clerk-Treasurer or other person giving notice of an alleged violation of a provision of this code, a written notice of an alleged violation may be sent by first class mail to the person who is alleged to have violated the code. The person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Clerk-Treasurer within 14 days of the notice of the violation. A sample notice is contained in Appendix A to this chapter. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice that the alleged violator adopt a compliance plan to correct the situation resulting in the alleged violation and the notice may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the Council to contest the request for

payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

(F) At any time after the due date for payment of the administrative penalty and, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the City, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the City, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the City for the alleged violation. If the City corrects the problem requiring a notice of violation, any expense incurred by the City may be certified for collection with real estate taxes.

**§ 10.99 GENERAL PENALTY AND ENFORCEMENT.**

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

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

(C) Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

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

(E) In addition to any penalties provided for in this section or in § 10.98 of this chapter, if any person, firm or corporation fails to comply with any provision of this code, the Council or any City official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.



APPENDIX A: NOTICE OF CODE VIOLATION

To: \_\_\_\_\_ (Name and address of person who is alleged to have violated the code)  
From: \_\_\_\_\_ (Name and title of City official giving the notice)  
Re: Alleged violation of Section of the City Code, relating to (give title of section)  
Date: \_\_\_\_\_ (Date of notice)

I hereby allege that on \_\_\_\_\_ (date of violation) you violated § \_\_\_\_\_ of the City Code relating to \_\_\_\_\_.

The Council has by resolution established an administrative penalty in the amount of \$ \_\_\_\_\_ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the City may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by \_\_\_\_\_ (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the City reserves the right to institute appropriate proceedings at law or in equity to restrain, correct or abate the violation.

Before the due date, you may request to appear before the Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the City will not initiate criminal proceedings for this alleged violation. However, the Council, or any City official designated by it, may institute appropriate proceedings at law or in equity to restrain, correct or abate the violation.

Payment of the administrative penalty may be made by check, cash or money order to the City Clerk-Treasurer.

Signed: \_\_\_\_\_  
(Name and Title of Person Giving Notice)



**TITLE III: ADMINISTRATION**

Chapter

**30. GENERAL PROVISIONS**

**31. DEPARTMENTS, BOARDS AND COMMISSIONS**

**32. EMERGENCY MANAGEMENT**



## CHAPTER 30: GENERAL PROVISIONS

### Section

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### **GENERALLY**

#### **§ 30.01 COUNCIL MEETINGS.**

(A) *Regular meetings.* Regular meetings of the Council shall be held at least once each month, at a date, time and place as established by the Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special and adjourned meetings, shall be held in the City meeting room unless the Council decides otherwise at a prior meeting, or meeting in the City meeting room is impractical.

(B) *Special meetings.* The Mayor or any two members of the Council may call a special meeting of the Council upon at least 24 hours written notice to each member of the Council. This notice shall be

delivered by email to each member or shall be left at the member's usual place of residence with some responsible person. Pursuant to M.S. Ch. 13D, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day.

(C) *Emergency meetings.* Notice of emergency meetings shall be given as required by M.S. Ch. 13D, as it may be amended from time to time. An emergency meeting is a meeting defined by M.S. Ch. 13D, as it may be amended from time to time.

(D) *Initial meeting.* At the first regular Council meeting in January of each year, the Council shall:

(1) Designate the depositories of City funds;

(2) Designate the official newspaper;

(3) Choose one of the Council members as acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the City or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;

(4) Appoint officers and employees and members of departments, boards, commissions and committees as may be necessary; and

(5) Establish and appoint Council members to those Council committees as are deemed appropriate for the efficient and orderly management of the City.

(E) *Public meetings.* All Council meetings, including special, emergency and adjourned meetings and meetings of Council committees, as well as meetings of City commissions and boards, shall be conducted in accordance with the Minnesota Open Meeting Law, M.S. Ch. 13D, as it may be amended from time to time.

#### **§ 30.02 PRESIDING OFFICER.**

(A) *Who presides.* The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the acting Mayor shall preside. In the absence of both, the City Clerk-Treasurer shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer.

(B) *Procedure.* The presiding officer shall preserve order, enforce any rules of procedure adopted by the Council, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order.

(C) *Appeal procedure.* Any member may appeal a ruling of the presiding officer to the Council. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, including the presiding officer.

**§ 30.03 MINUTES.**

(A) *Generally.* Minutes of each Council meeting shall be kept by the City Clerk-Treasurer or, in the City Clerk-Treasurer's absence, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the City Clerk-Treasurer and can be accurately identified from the description given in the minutes.

(B) *Approval.* The minutes of each meeting shall be reduced to typewritten form, shall be signed by the City Clerk-Treasurer, and copies thereof shall be delivered to each Council member as soon as practicable after the meeting. At the next regular Council meeting following the delivery, approval of the minutes shall be considered by the Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

**§ 30.04 ORDER OF BUSINESS.**

(A) *Order established.* Each meeting of the Council shall convene at the time and place appointed therefor. Council business shall be conducted in the following order unless varied by the presiding officer or by-laws or other procedures adopted by Council resolution:

- (1) Call to order;
- (2) Approve agenda;
- (3) Presentations/public forum;
- (4) Approval of minutes;
- (5) Reports of officers, boards and committees;
- (6) Treasurer's report and approve claims;

- (7) Unfinished business;
- (8) New business;
- (9) Council request;
- (10) Maintenance report;
- (11) Clerk report;
- (12) Miscellaneous/other; and
- (13) Adjournment.

(B) *Petitions and agenda.* Petitions and other papers addressed to the Council shall be read or copies distributed by the City Clerk-Treasurer upon presentation of the same to the Council. All persons desiring to present new business before the Council shall inform the City Clerk-Treasurer thereof at least 72 hours before new business is to be heard. The City Clerk-Treasurer may prepare an agenda of the new business for submission to the Council on or before the time of the next regular meeting.

#### § 30.05 VOTING.

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

#### § 30.06 ORDINANCE, RESOLUTIONS, MOTIONS, PETITIONS AND COMMUNICATIONS.

(A) *Signing and publication proof.* Every ordinance and resolution passed by the Council shall be signed by the Mayor, attested by the City Clerk-Treasurer and filed by the City Clerk-Treasurer in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

(B) *Repeals and amendments.* Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

**§ 30.07 SUSPENSION OR AMENDMENT OF RULES.**

These rules may be suspended only by a two-thirds vote of the members present and voting.

**§ 30.08 COMPENSATION OF MAYOR AND COUNCIL MEMBERS.**

The compensation of the Mayor and the compensation of each Council member shall be established from time to time by Council resolution pursuant to M.S. § 415.11, as it may be amended from time to time.

**§ 30.09 COMPENSATION OF OFFICERS AND EMPLOYEES.**

Officers and employees of the City shall be compensated at a rate as established from time to time by the Council.

**§ 30.10 QUORUM FOR CONDUCTING BUSINESS.**

(A) A quorum shall consist of a majority of the entire Council, including the Mayor. A quorum shall be necessary to transact the business of the Council.

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

**§ 30.11 FEES AND CHARGES.**

The Council may enact a resolution establishing those fees and charges that are authorized by this code. Until that resolution becomes effective, all fees and charges established by resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the resolution establishing fees and charges may be amended from time to time by amendment of that resolution.

**§ 30.12 APPLICATION OF STATE LAWS.**

The provisions of the Government Data Practices Act, M.S. Ch. 13, the Opening Meeting Law, M.S. Ch. 13D, and the laws relating to Gifts to Local Officials, M.S. § 471.895, as these laws may be amended from time to time, apply to the Council and all boards and commissions of this City and their members.

**§ 30.13 BACKGROUND INFORMATION.***(A) Applicants for City employment.*

(1) *Purpose.* The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in division (A)(2) below.

(2) *Criminal history employment background investigations.* Pursuant to M.S. § 364.021, as it may be amended from time to time, with the exception of the applicants for employment listed in M.S. § 364.09, as it may be amended from time to time, the City shall not inquire into or consider the criminal record or history of an applicant for public employment until the applicant has been selected for an interview by the City or, if there is not an interview, before a conditional offer of employment is made to the applicant.

The County Sheriff's Department is hereby required, as the exclusive entity for the City to do a criminal history background investigation on the applicants for the following positions within the City, unless the City's hiring authority concludes that a background investigation is not needed:

(a) *Employment positions.* All regular part-time or full-time employees of the City and other positions that work with children or vulnerable adults.

(b) *Criminal history background checks.* In conducting the criminal history background investigation in order to screen employment applicants, the County Sheriff is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the County Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the County Sheriff's Department to the hiring authority, including the Council, the City Clerk-Treasurer or other City staff involved in the hiring process.

(3) *Investigations.* Before the investigation is undertaken, the applicant must authorize the County Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, the City will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

(a) The grounds and reasons for the denial;

(b) The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;

(c) The earliest date the applicant may reapply for employment; and

(d) That all competent evidence of rehabilitation will be considered upon reapplication.

(B) *Applicants for City licenses.*

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

(2) *Criminal history license background investigations.* The County Sheriff's Department is hereby required to do a criminal history background investigation on the applicants and their employees for the following licenses or permits within the City under Chapter 111 of this code, and any applicants under Chapter 110 of this code.

(3) *Criminal history background investigations.* In conducting the criminal history background investigation in order to screen license or permit applicants, the Sheriff's Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Sheriff's Department to the licensing authority, including the Council, the City Clerk-Treasurer or other City staff involved in the license approval process.

(4) Before the investigation is undertaken, the applicant must authorize the Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, the City will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

(a) The grounds and reasons for the denial;

(b) The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;

(c) The earliest date, if applicable, that the applicant may reapply for the license; and

- (d) That all competent evidence of rehabilitation will be considered upon reapplication.

### ***OFFICERS***

#### **§ 30.25 CLERK-TREASURER; OFFICES COMBINED.**

(A) The offices of the City Clerk and City Treasurer are hereby declared to be combined pursuant to the authority of M.S. § 412.02, subd. 3, as it may be amended from time to time.

(B) After the effective date of this section, the duties of the Treasurer and the Clerk are combined and assigned to the Clerk-Treasurer.

(Ord. 73, passed 6-14-2004)

#### **§ 30.26 MAYOR; TERM AND ELECTION.**

(A) The term for the Mayor is hereby established at four years.

(B) There shall be a City election for electing the Mayor on the first Tuesday after the first Monday in November of every other even-numbered year, or such other day as may be established by state statute for state wide general elections.

(Ord. 51, passed 7-8-1996)

## CHAPTER 31: DEPARTMENTS, BOARDS AND COMMISSIONS

### Section

#### *Fire Department*

- 31.01 Fire Department
- 31.02 Policies and procedures

#### *Planning Commission and Board of Adjustments*

- 31.15 Establishment of the Planning Commission
- 31.16 Board of Adjustments

### ***FIRE DEPARTMENT***

#### **§ 31.01 FIRE DEPARTMENT.**

(A) At the time of the adoption of this code, the City has a Fire Department and will continue to have a Fire Department in this City. The Fire Department is established under the authority of state law, M.S. § 412.221, subd. 17, as it may be amended from time to time.

(B) As required by state law, M.S. § 412.241, as it may be amended from time to time, the Council shall have full authority over the financial affairs of the Fire Department, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public money. This division (B) does not apply to the funds of any Fire Department Relief Association.

#### **§ 31.02 POLICIES AND PROCEDURES.**

The Fire Department has adopted policies and procedures for the organization and operation of the department, which shall be effective upon approval by the Council. Any provisions of these policies and procedures, which may be called Standard Operating Procedures (SOPs), which are inconsistent with state and federal law, including the Veterans Preference Act, Minnesota Human Rights Act, and state laws requiring the Council to control Fire Department Finances, shall be unenforceable and void. Said

Standard Operating Procedures (SOPs) shall be reviewed on an annual basis and any changes/additions shall require Council approval.

### ***PLANNING COMMISSION***

#### **§ 31.15 ESTABLISHMENT OF THE PLANNING COMMISSION.**

If, at the time this code is adopted, the City has a Planning Commission, the Planning Commission for the City is hereby continued. The Planning Commission shall be the City planning agency authorized by M.S. § 462.354(1), as it may be amended from time to time.

(A) *Membership and organization.* The Planning Commission shall consist of five citizens-at-large, with up to two alternates. Members shall serve at the pleasure of the Council.

(1) Terms shall be for staggered three-year periods. Vacancies for unexpired terms shall be filled/appointed by the Council.

(2) Members of the Commission shall reside within the incorporated limits of the City or have a vested interest in the stability of the City, such as a business owner/operator and the like, at the Council's discretion.

(3) The Chairperson shall be chosen by the Commission and shall serve for a period of one year. A Vice-Chairperson shall also be chosen in the same manner and for the same term in the absence of the Chairperson.

(4) The Zoning Administrator shall attend all meetings to provide technical assistance when requested and to record proceedings and may serve as Secretary.

(5) The Secretary shall conduct all necessary correspondence of the Commission and shall generally supervise all clerical work of the Commission, including minutes of the Commission meetings.

(B) *Powers and duties.* It is the intent of this chapter that the duties of the City Planning Commission shall include the following:

(1) Review or initiate applications for amendments and changes to this chapter and report the findings and recommendations to the Council as provided in this chapter;

(2) Review, hear and make recommendations to the Council of all applications for conditional use permits as provided in this chapter;

(3) Conduct appropriate public hearings as regards to this chapter;

(4) Prepare, in cooperation with the Zoning Administrator, an annual review related to the effectiveness of this chapter as provided in this chapter; and

(5) Review and make recommendations on site plans as provided in this chapter.

(C) *Records.* Minutes shall be kept for all Planning Commission meetings. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited to, names and addresses of all persons appearing before the Commission, a record of all hearings and testimony, all exhibits presented to the Commission, a copy of each resolution acted upon by the Commission, the vote of each member upon each question, the reasons for the Commission's determination and the members absent or failing to vote. These records shall be immediately filed in the City office and shall be a public record.

(D) *Decisions.* All actions and recommendations of the Planning Commission pertaining to this chapter shall require a simple majority of maximum five of those members attending official Commission meetings. The Chairperson will use a lottery, when necessary, at the start of the meeting to limit voting to a maximum of five members. Record of all actions and recommendations shall be forwarded to the Council for necessary formal action.

(Ord. 72, passed 2-9-2004; Ord. 92, passed 10-12-2020)

#### § 31.16 BOARD OF ADJUSTMENTS.

(A) *Membership and organization.* The Board of Adjustments shall consist of three members: one Council member; the Zoning Administrator or member of the Planning Commission; and one citizen-at-large. Members shall serve at the pleasure of the Council.

(1) Terms shall be for staggered three-year periods. Vacancies for unexpired terms shall be filled/appointed by the Council.

(2) Members of the Board shall reside within the incorporated limits of the City or have a vested interest in the stability of the City, such as a business owner/operator and the like, at the Council's discretion.

(B) *Powers and duties.* The Board of Adjustments shall have the following powers and duties with regard to this chapter:

(1) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement and interpretation of this chapter; and

(2) *Variances.* To authorize, upon appeal, in specific cases the variances from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open

spaces. Under no circumstances shall a variance be granted to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district. The presence of non-conformities in the district or uses in an adjoining district shall not be considered as grounds for a variance.

(C) *Records.*

(1) Minutes shall be kept for all Board meetings. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited to, names and addresses of all persons appearing before the Board, a record of all hearings and testimony, all exhibits presented to the Board, a copy of each resolution acted upon by the Board, the vote of each member upon each question, the reasons for the Board's determination and the members absent or failing to vote.

(2) These records shall be immediately filed in the City office and shall be a public record.

(D) *Decisions.* All actions and recommendations of the Board of Adjustments pertaining to this chapter shall require a simple majority of those members attending official Board meetings. Record of all actions and recommendations shall be forwarded to the Council for necessary formal action.

(Ord. 72, passed 2-9-2004)

## CHAPTER 32: EMERGENCY MANAGEMENT

### Section

- 32.01 Policy and purpose
- 32.02 Definitions
- 32.03 Establishment of emergency management organization
- 32.04 Local emergencies
- 32.05 Emergency regulations
- 32.06 Emergency management a government function
- 32.07 Participation in labor disputes or politics
  
- 32.99 Penalty

### § 32.01 POLICY AND PURPOSE.

Due to the possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of this City will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this City, it is hereby found and declared to be necessary:

(A) To partner with the McLeod County emergency management organization responsible for City planning and preparation for emergency government operations in time of disasters;

(B) To provide for the exercise of necessary powers during emergencies and disasters;

(C) To provide for the rendering of mutual aid between this City and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions; and

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

**§ 32.02 DEFINITIONS.**

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

**DISASTER.** A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

**EMERGENCY.** An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

**EMERGENCY MANAGEMENT.** The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. **EMERGENCY MANAGEMENT** includes those activities sometimes referred to as "civil defense" functions.

**§ 32.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

The City is included in the McLeod County Emergency Management Organization set up in the McLeod County Emergency Management ordinance, as currently stated and as may be amended from time to time. Said ordinance is hereby adopted by reference as if set out in full herein.

**§ 32.04 LOCAL EMERGENCIES.**

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order, or proclamation declaring, continuing or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk-Treasurer.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 32.99

### **§ 32.05 EMERGENCY REGULATIONS.**

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk-Treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk-Treasurer's office shall be conspicuously posted at the front of the City hall or other headquarters of the City or at other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the City is, under the provisions of M.S. § 12.37, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the City, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The City may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids and requirement for bids.

Penalty, see § 32.99

**§ 32.06 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.**

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

**§ 32.07 PARTICIPATION IN LABOR DISPUTES OR POLITICS.**

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

**§ 32.99 PENALTY.**

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of City employees or officers is guilty of a misdemeanor.

**TITLE V: PUBLIC WORKS**

**Chapter**

**50. WATER**

**51. SEWERS**

**52. SANITATION**



## CHAPTER 50: WATER

### Section

- 50.01 Designation
- 50.02 Hydrants
- 50.03 Excavations
- 50.04 Taps and connections
- 50.05 Water meters and remote meter reader
- 50.06 Building service line; responsibility; leaks
- 50.07 Permits and records
- 50.08 Restricted use periods
- 50.09 Charges and payments; billing
  
- 50.99 Penalty

### § 50.01 DESIGNATION.

The waterworks of the City shall be known and designated as the "City Waterworks of the City of Plato, Minnesota".

(Ord. 34, passed 1-7-1985)

### § 50.02 HYDRANTS.

(A) All hydrants erected within and by the City for fire extinguishing and waterworks maintenance, are hereby declared to be public hydrants. Except for the Council, the Public Works Director, or a duly authorized agent, no person other than members of the Fire Department of the City, for uses and purposes of the Department, can draw or attempt to draw any water from a hydrant. No person shall remove or attempt to remove any matter or thing designed or intended for protection of the hydrant or meddle or damage any hydrants.

(B) No person authorized to open hydrants shall delegate his or her authority to another, except for purposes strictly connected with the Fire Department.

(Ord. 34, passed 1-7-1985) Penalty, see § 50.99

**§ 50.03 EXCAVATIONS.**

(A) No person shall make any excavation in any street or highway within ten feet of any laid water or sewer pipe while the ground is frozen; or dig up or uncover so as to expose to the frost any water pipe or sewers of the City, except by the permission of the Council, Public Works Director or their duly authorized agent.

(B) No person shall make any excavation in any street or highway, for the purpose of laying water pipe, or tap any water of surface pipes laid down, without the permission for the Council, Public Works Director or their duly authorized agent, and all plumbing work required in the building or for other purposes, must be completed to the lines of the streets, before any excavation shall be made in the street for the purpose of connecting with the mains.

(Ord. 34, passed 1-7-1985) Penalty, see § 50.99

**§ 50.04 TAPS AND CONNECTIONS.**

(A) No person, corporation, firm or entity of any sort shall make or cause to be made any new or additional connection with any water main in the City without first obtaining from the Council a permit.

(B) No taps or water connection shall be allowed to be made to the water mains of the City waterworks, without the attachment of a water meter, and all water (except as hereinafter provided) shall be sold by measure, as indicated and measured by meters furnished and sold by the City, and it shall be the duty of the Public Works Director to close, or disconnect, or shut off, all the openings where water is furnished free, or without passing through a meter, nor shall water be allowed to be turned on without being properly metered.

(C) The owner or owners of any premises shall hereafter be solely responsible for the payments of any charges for water rents, sewage rental charges, meter installations, curb connections for water furnished to the premises or for meters or curb connections which may have been installed, whether the water has been used by the owners or their tenant or tenants. All rents, for water, and all charges for meter installations or curb connections must be paid by the owner or owners promptly when due at the office of the City Clerk-Treasurer.

(D) No more than one house or building shall be supplied from one service connection. The Council may waive this requirement upon a finding that a separate service connection to any house or building is impractical. Whenever two or more houses or buildings are supplied from one building service line connected to a public water main, each house, building or part thereof separately supplied shall have a separate curbstop and a separate meter reader unit.

(Ord. 34, passed 1-7-1985)

**§ 50.05 WATER METERS AND REMOTE METER READER.**

(A) Except for extinguishment of fires, no person, unless otherwise authorized by the Council or Public Works Department, shall use water from the water system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied or approved by the City.

(B) No person not authorized by the Council or Public Works Department shall connect, disconnect, take apart or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

(1) A charge shall be paid by customers to the City for water meters including installations and check valves and payment for same shall be made at the time of water service application.

(2) Where a consumer has need for a larger line in addition to his or her domestic line, as in the case of a commercial consumer who needs a one-inch line for normal use and a six-inch or larger line for a fire sprinkler system, he or she will be permitted to run one line into the premises and "Y" off into two lines at the building. When this is done, the meter will be attached to the small or domestic line and a check valve as well as one-inch detection meter shall be put on the large line.

(3) The City shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or carelessness of the owner or occupant of the premises, any expense caused the City thereby shall be charged against and collected from the water consumer.

(4) A consumer may, by written request, have his or her meter tested. In case a test should show an error of over 5% of the water consumed, a correctly registering meter will be installed, and the bill be adjusted accordingly. The adjustment shall not extend back more than one billing period from the date of the written request. In case a test should show a proper registering meter, the consumer requesting the test will be responsible for all expenses occurred in obtaining the test.

(5) A remote water meter reading unit shall be installed on an exterior wall or surface, in a location reasonably accessible to municipal employees, for every newly constructed building receiving a municipal water meter. There shall be a remote reading unit installed on an exterior wall or surface, in a location reasonably accessible to municipal employees, for every existing building receiving metered municipal water service, at the time that a water meter is installed or at the time that the existing water meter is replaced, removed, altered, relocated or changed because of the water meter being inaccessible, in need of repair or adjustment, broken, inoperative, upgraded or for any other reason, regardless of liability. The cost of the purchase and installation of the remote reading unit shall be paid by the customer to the municipality.

(6) All water meters and remote readers shall be and remain the property of the City.

(7) Authorized City employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for inspections, maintenance and reading of meters.

(8) The Public Works Director shall approve the location of any water meter in any structure before the meter is permanently located in any structure.  
(Ord. 34, passed 1-7-1985)

#### **§ 50.06 BUILDING SERVICE LINE; RESPONSIBILITY; LEAKS.**

(A) *Responsibility for building service line.* All water building service lines connecting the public water main to the property serviced, from the curbstop shut-off device to its connection with the interior plumbing system of the house or building served, shall be owned by and all expenses of maintaining, repairing, and replacing them shall be borne by the owner of the property served. For the purpose of defining areas of responsibility the identifying curbstop shall be the curbstop closest to the public water main, regardless of the length of the building service line between the curbstop and the property being served, or whether or not the building service line from the above-defined curbstop is on public or private property, or whether or not other curbstops exist within the building service line system. The City is responsible for the curbstop shut-off device and service line back to the water main.

(B) *Repair of leaks.* The customer, and also the owner, occupant, or lessee if not the customer, shall be responsible for repair of any leaks in the building service line as defined in division (A) above. If any such leak is not repaired within the time allowed in the notice, after notice to any of them to repair the leak, including notice left at the premises, the Public Works Director may shut the water off. When the waste of water is great or damage is likely to occur from the leak, the Public Works Director may turn the water off immediately and thereafter give notice to repair, as provided herein.

#### **§ 50.07 PERMITS AND RECORDS.**

(A) The Council shall direct the City Clerk-Treasurer to issue all permits in all qualifying cases for the laying of all service pipes to connect with the distributing mains.

(B) The Public Works Director shall keep full and complete record thereof and of all work done, with suitable diagrams showing the location, number and size of all taps in the mains and service pipes connected therewith, and other records as may be directed. The Clerk-Treasurer shall collect all rents for the use of water, and keep full and complete records of all amounts due and collected.  
(Ord. 34, passed 1-7-1985)

#### **§ 50.08 RESTRICTED USE PERIODS.**

Whenever the Council determines that a shortage of water supply threatens the City water supply, it may by resolution, limit the times and hours during which City water may be used for sprinkling, air

conditioning, irrigation, car washing and other specified uses. Any person ignoring said restriction may be charged an excess water use charge or have water service discontinued as determined by the Council.

**§ 50.09 CHARGES AND PAYMENTS; BILLING.**

(A) The city staff is authorized to estimate charges if the meter cannot be read for any reason.

(B) Any person who submits a check or other draft payment which fails to clear the bank for any reason shall receive an additional charge as a returned check charge, per annual fee schedule.

(C) In a landlord/tenant situation, the owner of the property is ultimately responsible for payment of all utility charges incurred at the property. The City will not seek collection from the tenants or others occupying the property.

(D) The Public Works Director shall read the water meters in the City on a monthly basis. The Public Works Director upon reading the meters shall deliver the water use information to the City Clerk-Treasurer, who shall prepare water bills and mail the same to the users as soon as practically possible. The user shall pay all water bills thus received no later than the fifteenth day of the month next following the month for which the billing was provided. In the event of non-payment of any billing by the fifteenth of the month as above states, the user shall pay to the City a late penalty. The City Clerk-Treasurer is instructed to report to the Council any user who is 90 days in arrears of payment of any water bill.

(E) At any time a water bill is unpaid for a period of 90 days from the date of billing, the Council shall have the power to have the water supply shut off to the premises for which the water bill is unpaid until such time as all sums due and owing are paid, including the additional penalty sum to defray the cost of the City for shutting off and reopening the water supply. (See the water service disconnection policy adopted May 9, 2016, as may be amended from time to time.)

(F) In the event that any water bill, or other charge due to the City pursuant hereto, has been delinquent for 90 days or more on October 1 of each year, the City Clerk-Treasurer shall certify the entire amount of the bill and the applicable penalty over to the County Auditor to levy the charges in the same manner as special assessments against the real estate upon which the particular bill was incurred.

(G) Parties wishing to use City water for the purpose of flushing sewers, building purposes, concrete work or other purposes where water is taken from the hydrants, shall make application to the City Clerk-Treasurer, who shall inform the Public Works Director, who in turn shall furnish water for such purposes at his or her convenience upon at least 24 hours' notice. The Public Works Director shall make an estimate of the value of the water if used and for the use of hose, and his or her time, and shall immediately report the same to the City Clerk-Treasurer who shall bill for the same to be collected as a water bill.

(H) All water shall be sold by the City to the users at a charge as determined by the City for water consumed. No consumer of City water shall, for pay, supply City water to others or permit others to use water from his or her premises.

(Ord. 34, passed 1-7-1985; Ord. 65, passed 1-8-2001)

**§ 50.99 PENALTY.**

A violation of this chapter shall constitute a petty misdemeanor and that each day of non-compliance or violation shall comprise a separate offense.

(Ord. 34, passed 1-7-1985)

## CHAPTER 51: SEWERS

### Section

- 51.01 Adoption of Glencoe regulations
- 51.02 Sewer Fund
- 51.03 Septic tanks
  
- 51.99 Penalty

### § 51.01 ADOPTION OF GLENCOE REGULATIONS.

The wastewater treatment portion of the Glencoe, Minnesota, Code of Ordinances, Chapter Two, 210-217 and 219-221, is hereby adopted by reference and incorporated herein as if set out in full.

### § 51.02 SEWER FUND.

(A) There is hereby established a Sewer Fund for the City, which shall be maintained as a separate part of the General Fund and for which all income into the fund shall be segregated from other City funds. Books and records shall be maintained separately for all income and expenditures from the fund. The fund is established for the express purpose of providing funds for the construction, maintenance, repair and replacement of the sanitary and/or storm sewer system and lines within the City and matters related thereto.

(B) There is hereby imposed upon each premises in the City which is connected to the City municipal water supply a sewer charge. The Council shall have the power to modify the sewer charge so established from time to time by resolution.

(C) The sewer charge so established shall be collected with the regular water bills as a separate item and all collections so made shall be deposited in the Sewer Fund. Any unpaid bills shall be collected and enforced in the same manner as water bills are collected or enforced.

(Ord. 48, passed 1-13-1992)

**§ 51.03 SEPTIC TANKS/DRAINAGE FIELD SYSTEMS.**

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

***INDIVIDUAL SUBSURFACE SEWAGE TREATMENT PLANT (ISTS).*** As adopted and promulgated by the state statutes and in Minn. Rules 7080, Subp. 41 and as may be amended from time to time.

(B) Minn. Rules Ch. 7080, Individual Sewage Treatment Systems (ISTS), as adopted and promulgated by the state and as may be amended from time to time, insofar as the same applies to the installation, use, maintenance, repair and replacement of septic tanks/drain field systems is hereby adopted by reference as if the same was fully set forth herein. All septic tank/drain field systems shall be installed in compliance therewith.

(C) Prior to the installation of any ISTS within the City, the owner of the premises upon which ISTS is to be installed, shall apply to the City for approval. In addition, all other information required by Minn. Rules Ch. 7080 - ISTS, including the dimensions of the lot, the dimensions and location of the septic tank/drain field, and the capacity thereof, shall be included with the application.

(D) Upon a proper and qualifying application under Minn. Rules Ch. 7080 - ISTS - so made, the Council shall grant approval for a particular ISTS as soon as practically possible; provided, the soil conditions, location and design meet all applicable regulations.  
(Ord. 47, passed 11-12-1990) Penalty, see § 51.99

**§ 51.99 PENALTY.**

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

(B) Any violation of § 51.03 of this chapter shall constitute a misdemeanor and each day of non-compliance shall constitute a separate offense.  
(Ord. 47, passed 11-12-1990)

## CHAPTER 52: SANITATION

### Section

- 52.01 Refuse removal required
- 52.02 Collection service
- 52.03 Container placement
- 52.04 Meddling with garbage/recycling containers prohibited
- 52.05 Containers to be kept sanitary and secure
- 52.06 Unauthorized private collections prohibited
- 52.07 Sanitation service; City options
- 52.08 Removal of building materials
- 52.09 Non-residential customers; container types; collection schedules
- 52.10 Manner of collection and transportation
- 52.11 Written contracts
- 52.12 Disposal of leaves, branches, grass clippings and yard waste

### **§ 52.01 REFUSE REMOVAL REQUIRED.**

Every person owning, managing, operating, leasing or renting any premises or any place where garbage or rubbish accumulates is responsible for proper disposal.

### **§ 52.02 COLLECTION SERVICE.**

A sanitation collection service is not required. However, if a sanitation collection service is utilized, then the collection service company is required to be the one selected as the exclusive service contracted with the City. Commercial properties may use the sanitation collection service of their choice.

### **§ 52.03 CONTAINER PLACEMENT.**

(A) Containers for garbage, refuse and recycling are provided by the collection services and are the only containers that may be used.

(B) It shall be the duty of every person whose garbage, refuse and recycling are collected by the sanitation collection service/recycling collection service to place their containers along the curblines of the street abutting their property or in the absence of a curb directly along the edge of the road along the property. In no event shall containers be placed in any manner where the containers will interfere with

vehicular or pedestrian traffic. It shall be the responsibility of the subscriber to place the containers no earlier than 6:00 p.m. of the afternoon preceding the collection day, and remove the containers at the earliest opportunity following collection.

**§ 52.04 MEDDLING WITH GARBAGE/RECYCLING CONTAINERS PROHIBITED.**

(A) It shall be unlawful to meddle with garbage or recycling containers or in any way pilfer, search or scatter contents of containers in or upon any street or alley within the City limits.

(B) This section shall not apply to persons authorized by the City or persons authorized by state or federal law to search or otherwise meddle with garbage/recycling.

Penalty, see § 10.99

**§ 52.05 CONTAINERS TO BE KEPT SANITARY AND SECURE.**

All containers shall be kept clean and free from accumulation or any substance remaining attached to the inside of the container which would attract or breed flies, mosquitoes or other insects. The area surrounding garbage/recycling containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the City. All containers shall be securely closed in a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents and other animals.

**§ 52.06 UNAUTHORIZED PRIVATE COLLECTIONS PROHIBITED.**

(A) It shall be unlawful for any person to transport garbage or recycling for hire which has been collected from any premises within the City over any public street within the City.

(B) This section shall not apply to any person who at the time of the activity is operating under a valid contract or franchise granted by the City which authorizes that person to use the public streets to conduct that activity.

(C) This section shall not apply to any garbage or recycling collection commissioned by a commercial entity within the City limits.

Penalty, see § 10.99

**§ 52.07 SANITATION SERVICE; CITY OPTIONS.**

The Council may provide for sanitation collection services within the City by use of City employees and vehicles, or it may grant licenses under the terms and conditions of this chapter, or it may contract with one or more contractors for the provision of these services under the terms and conditions

negotiated with the contractors, except that the provisions for insurance under this chapter shall always apply.

#### **§ 52.08 REMOVAL OF BUILDING MATERIALS.**

Waste from building operations, rock waste, building materials or other garbage resulting from building or remodeling operations or resulting from a general cleanup of vacant or improved property shall be removed by the building contractor, owner or occupant of the building at his or her own expense. It shall be unlawful for any person to place those materials in any dumpster or other container for disposal by the City or any agent or contractor of the City.

Penalty, see § 10.99

#### **§ 52.09 NON-RESIDENTIAL CUSTOMERS; CONTAINER TYPES; COLLECTION SCHEDULES.**

(A) It shall be the duty of the owner or person otherwise in charge of commercial, institutional or industrial premises within the City to cause all garbage and trash accumulated on the premises to be placed in commercial-type containers. Commercial-type containers may be used and may be placed at a location on the premises as arranged between the customer and the collector, but subject to review by the City at any time.

(B) It shall be the duty of the owner or person otherwise in charge of commercial, institutional or industrial premises within the City to follow the collection practices of the collector.

(C) The collection and removal of garbage and trash from premises used for commercial, institutional or industrial purposes shall be made as often as necessary in order to maintain the premises free of accumulations.

#### **§ 52.10 MANNER OF COLLECTION AND TRANSPORTATION.**

(A) The collection, removal and disposal of all garbage and recycling shall be carried on in a systematic and efficient manner to keep the City in a clean and sanitary condition.

(B) All vehicles used for the collection and transportation of garbage and recycling shall be equipped with suitable covers which shall be used to prevent blowing or scattering of refuse while garbage and recycling are being transported for disposal.

#### **§ 52.11 WRITTEN CONTRACTS.**

In order to provide for a continuous system of garbage and recycling collection and disposal in a manner which meets the needs and conveniences of the residents of the City and in order to protect the

area from the problems of uncoordinated, unsanitary and improper solid waste disposal, the Council may determine that it is in the best interests of the residents of the City to have written contracts with persons collecting or hauling garbage and recycling for hire, reserving to the City the right and authority to contract with one or more operators to provide these services. No person or firm shall be allowed to provide regular garbage or recycling service for residences within the City without first being under contract with the City.

**§ 52.12 DISPOSAL OF LEAVES, BRANCHES, GRASS CLIPPINGS AND YARD WASTE.**

A yard waste disposal site is provided to all residents within the City limits. This yard waste site shall be maintained by the City and is restricted for the disposal of organic yard waste items only.

**TITLE VII: TRAFFIC CODE**

Chapter

**70. TRAFFIC AND PARKING**

**71. RECREATIONAL VEHICLES**



## **CHAPTER 70: TRAFFIC AND PARKING**

### Section

- 70.01 State highway traffic regulations adopted by reference
- 70.02 Winter parking
- 70.03 Unreasonable acceleration of motor vehicles
- 70.04 Obstruction of traffic/street parking
  
- 70.99 Penalty

### **§ 70.01 STATE HIGHWAY TRAFFIC REGULATIONS ADOPTED BY REFERENCE.**

(A) The Highway Traffic Regulations Act is hereby adopted by reference. The provisions of M.S. Ch. 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the City and are hereby incorporated in and made a part of this section as completely as if set out in full herein.

(B) The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.

### **§ 70.02 WINTER PARKING.**

(A) In cases where a snow fall of at least two inches has occurred in the City, no motor vehicles, trailers, machines or any other items which would impede the clearing of snow shall be parked or placed on public rights-of-way, including streets, alleyways and public parking lots, until such time as this snow has been removed, curb to curb, from the rights-of-way by the contractor hired by the City for that purpose.

(B) Snowbirds (motor vehicles, trailers, machines and the like left on the street during a snow event) are hereby declared to be a nuisance and unlawful within the City.

(C) Violations of this section shall be subject to the penalty for violation of this section; notwithstanding, whether or not the owner or violator actually parked such a vehicle. The owner of any vehicle for the purpose of this provision shall be the recorded owner according to the registration thereof and of record with the office of the Minnesota Department of Public Safety.

(D) Any peace officer who finds a motor vehicle, trailer, machinery or other object in violation of division (A) above is authorized under this section to have the item removed at the owner's expense, to be taken and stored at an impound location designated by the City. In addition to the cost of removal, the owner shall also be liable for any storage charges incurred at the impound facility.  
(Ord. 89, passed 4-13-2015) Penalty, see § 70.99

### § 70.03 UNREASONABLE ACCELERATION OF MOTOR VEHICLES.

(A) No person shall start or unreasonably accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private way within the City. Unreasonable accelerations is herein defined and is prohibited.

(B) *UNREASONABLE ACCELERATION OF A MOTOR VEHICLE* is hereby defined as acceleration without apparent reason and accomplished in such a manner as to cause squealing or screeching sounds by the tires of the vehicle or both.

(C) Prima facie evidence of the unnecessary and unreasonable acceleration shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of the vehicle or both.

(D) In a manner so as to create loud, unnecessary and excessive noise or in any way which shall unduly disturb the peace and privacy of the residents of the City or in any manner which creates a public nuisance.

(Ord. 23, passed 6-6-1977) Penalty, see § 70.99

### § 70.04 OBSTRUCTION OF TRAFFIC/STREET PARKING.

(A) No person shall park or double park a motor vehicle, trailer, machine or any other item on any street or alley (improved or unimproved) within the City in any way whereby the item obstructs the normal flow of traffic or emergency vehicle access.

(B) There shall be no parking of any motor vehicle and/or any trailer on any City street unless said vehicle/trailer has a current registration and license which allows it to travel on any roadway.

(C) No recreational vehicle (RV), trailer, boat, camper, bus, ice house, commercial vehicle or any farming implement, attached or unattached to a motor vehicle, shall park upon any City street for a continuous period in excess of 72 hours.

Penalty, see § 70.99

(B) Each violation of § 70.02 of this chapter may be cited by the peace officer. The violation shall be considered a petty misdemeanor, punishable by a fine of an amount as set by the Council from time to time, or a higher amount as prescribed in M.S. § 609.0332, as it may be amended from time to time, or any law amending or replacing the state law. All fines are in addition to the expenses noted in § 70.02(D) of this chapter.

(C) Any person violating any provisions of § 70.03 of this chapter shall be guilty of a petty misdemeanor and shall be punished by a fine of not to exceed \$300.  
(Ord. 23, passed 6-6-1977; Ord. 89, passed 4-13-2015)



## CHAPTER 71: RECREATIONAL VEHICLES

### Section

71.01 Snowmobiles/ATVs

71.99 Penalty

### § 71.01 SNOWMOBILES/ATVS.

(A) It shall be unlawful for any person to drive or operate any snowmobile, all-terrain vehicle (ATV), motorcycle, motorbike, moped or similar mode of transportation in the following unsafe or harassing ways at any place with the City limits:

(1) On private property of another without express permission to do so by the owner or occupant of the property;

(2) On park property, playgrounds, ball fields and recreation acres, without the express permission to do so by the proper public authority;

(3) At a rate of speed greater than the posted City street speed limit;

(4) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;

(5) While under the influence of intoxicating liquor, narcotics or habit forming drugs;

(6) In a manner so as to create loud, unnecessary and excessive noise or in any way which shall unduly disturb the peace and privacy of the residents of the City or in any manner which creates a public nuisance thereby; or

(7) Without lighted head and tail light(s) when required for safety.

(B) No person shall operate a snowmobile, all-terrain vehicle (ATV) or motorbike upon any public street or alley within the City limits between the hours of 11:00 p.m. and 7:00 a.m. (Ord. 20, passed 2-1-1971) Penalty, see § 71.99

**§ 71.99 PENALTY.**

Any person violating any provision of this chapter shall constitute a petty misdemeanor and shall be subject to the penalties prescribed in § 10.99.  
(Ord. 20, passed 2-1-1971)

**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. ANIMALS**

**91. HEALTH AND SAFETY; NUISANCES**



## CHAPTER 90: ANIMALS

### Section

- 90.01 Definitions
- 90.02 Non-domesticated (wild) animals; possession prohibited
- 90.03 Harboring animals to conform to zoning regulations
- 90.04 Dogs and cats; limitation
- 90.05 Basic care
- 90.06 Running at large prohibited; other nuisances
- 90.07 Impounding
- 90.08 Seizure of animals
- 90.09 Animals presenting a danger to health and safety of City
- 90.10 Diseased animals
- 90.11 Dangerous animals
- 90.12 Dangerous animal requirements
- 90.13 Enforcing officer
- 90.14 Pound
- 90.15 Interference with officers
  
- 90.99 Penalty

### § 90.01 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 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.

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

(3) **NON-DOMESTIC (WILD) 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 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 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 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 rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and

(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.** The permitting of any animal to go on or about the public streets, alleys, or public or private places of the City, when 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.

**IN THE IMMEDIATE PHYSICAL PRESENCE OF THE OWNER.** The animal is upon private property, but in the immediate company of the owner of the animal and under reasonable voice command and does not leave the private property upon which the animal is permitted. This term shall

not apply to situations in which the owner is within a dwelling structure or vehicles upon the premises while the animal is not under restraint, nor shall it apply to circumstances in which the owner is unable to control the animal by voice command due to insufficient training of the animal or the inability of the owner to control the animal's actions. It shall be prime facia proof that there exists inadequate control of the animal if the animal leaves the permitted private premises and strays upon public premises or other private premises for which there is no permission for the animal to be upon.

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

**PET.** Any domestic animal which is retained by a person for the purposes of companionship.

**UNDER RESTRAINT.** The animal is: within a sufficient enclosure upon the owner's property to prevent the animal from leaving the premises; in a closed motor vehicle; retained by a leash, cord, rope or chain of sufficient construction strength, attachment and limited length, to prevent the animal from leaving the owner's premises; or controlled by a leash not exceeding six feet in length.

(Ord. 41, passed 5-9-1988; Ord. 46, passed 7-9-1990)

**§ 90.02 NON-DOMESTICATED (WILD) ANIMALS; POSSESSION PROHIBITED.**

No person shall possess, own, harbor, keep, maintain or otherwise foster any non-domesticated (wild) animal whatsoever in any public or private place within the City. Wild animals in their natural state, free from human restraint, such as squirrels, rabbits and birds, are not subject to this provision. Feeding wild birds shall not be a violation of this provision, provided the person does not intend to have captive control over the wild birds.

(Ord. 41, passed 5-9-1988) Penalty, see § 90.99

**§ 90.03 HARBORING ANIMALS TO CONFORM TO ZONING REGULATIONS.**

No living creature whatsoever shall be harbored, maintained or possessed in any zone within the City, except as authorized by the existing zoning ordinances and regulations of the City.

(Ord. 41, passed 5-9-1988) Penalty, see § 90.99

**§ 90.04 DOGS AND CATS; LIMITATION.**

No person shall harbor, maintain or keep more than three dogs or cats on any one premises, unless the existing zoning provides for a kennel operation. Puppies or kittens under 12 weeks of age as offspring of permitted pets shall not count against this limitation.

(Ord. 41, passed 5-9-1988) Penalty, see § 90.99

**§ 90.05 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.

Penalty, see § 90.99

**§ 90.06 RUNNING AT LARGE PROHIBITED; OTHER NUISANCES.**

(A) *Generally.* No animal shall be permitted to run at large within the limits of the City. All pets, except dogs and cats, shall be confined in a fenced area, cage, aquarium or other escape proof enclosure suitable to the species. 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) *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.

(C) *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.

(D) *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.

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

(Ord. 41, passed 5-9-1988; Ord. 46, passed 7-9-1990; Ord. 76, passed 4-11-2005) Penalty, see § 90.99

**§ 90.07 IMPOUNDING.**

(A) *Running at large.* Any animal running at large is hereby declared a public nuisance. Any animal control officer or peace officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The animal control officer or peace officer shall not enter the property of the owner of an

animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the City office that if the dog or other animal is not claimed within the time specified in division (C) below, 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 § 90.11, in which case it shall be kept for seven regular business days or the times specified in § 90.11, 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 Council:

(1) Payment of the release fee and receipt of a release permit as established by the City fee schedule, as it may be amended from time to time; and

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

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

(Ord. 41, passed 5-9-1988; Ord. 76, passed 4-11-2005) Penalty, see § 90.99

**§ 90.08 SEIZURE OF ANIMALS.**

Any peace officer or animal control officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal; provided that the following exist:

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

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 90.06; the criteria for cruelty set out in 90.05; or the criteria for an at large animal set out in § 90.06;

(C) The officer can demonstrate that there has been at least one previous complaint of barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The animal control officer or peace officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

**§ 90.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.**

If, in the reasonable belief of any person or the animal control officer or peace officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 90.07. 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 § 90.07.

**§ 90.10 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 and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the animal control officer or a peace officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the City, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the City for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Penalty, see § 90.99

**§ 90.11 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 animal control officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

***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

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(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.

**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.

**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 one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches; and

(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.

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

(D) *Designation as potentially dangerous animal.* The animal control officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked or threatened the safety of a person or a domestic animal

as stated in division (C) above. When an animal is declared potentially dangerous, the animal control officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

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

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

(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) above.

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

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

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

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

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

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

the owner does not immediately make the animal available, the animal control officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

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

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

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

Penalty, see § 90.99

#### § 90.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirement.* If the Council does not order the destruction of an animal that has been declared dangerous, the 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 § 90.11(C);

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

(3) Provide 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, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) All animals deemed dangerous by the animal control officer shall be registered with the county in which this City is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the animal control officer; and

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

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

(C) *Reclaiming animals.* A dangerous animal seized under division (B) above, 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 division (B) above is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 90.11(F) and the owner is liable to the City for costs included in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 90.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 90.11(F). If the owner is found to have violated the provisions for which the animal was seized, the animal control officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of division (C) above. 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 § 90.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

### **§ 90.13 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 Council, designate assistants.

### **§ 90.14 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.

**§ 90.15 INTERFERENCE WITH OFFICERS.**

No person shall in any manner molest, hinder or interfere with any person authorized by the 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, set § 90.99

**§ 90.99 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.

(Ord. 41, passed 5-9-1988)

## CHAPTER 91: HEALTH AND SAFETY; NUISANCES

### Section

#### *General Provisions*

- 91.01 Clarifications
- 91.02 Assessable current service

#### *Nuisances*

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- 91.16 Nuisances affecting health
- 91.17 Nuisances affecting morals and decency
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- 91.19 Nuisance parking and storage
- 91.20 Inoperable motor vehicles
- 91.21 Building maintenance and appearance
- 91.22 Duties of City officers
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- 91.71 External solid fuel-fired heating devices (outdoor wood burning stoves)
  
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### **GENERAL PROVISIONS**

#### **§ 91.01 CLARIFICATIONS.**

(A) *Unreasonable or Considerable or Few or any other verbiage that may not have a set definition.* In such instances, the definition shall be determined by a majority of the Council. Council may rely on/refer to opinions solicited from experts/organizations/companies in making the determination.

(B) *Public nuisance or private nuisance.* Classification shall be determined by a majority of the Council based on formal written complaints received. Council may rely on/refer to opinions solicited from experts/organizations/companies in making the determination.

#### **§ 91.02 ASSESSABLE CURRENT SERVICES.**

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

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

(B) *Snow, ice, dirt and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by City.* The Public Works Director or other person designated by the Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The Public Works Director or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

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

(D) *Installation and repair of water service lines.* Whenever the City installs or repairs water service lines serving private property under Chapter 50 of this code, the City Clerk-Treasurer shall keep a record of the total cost of the installation or repair against the property.

(E) *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any unlawful or negligent operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act, damages any public property shall be liable for the full cost of the repair or replacement of the damaged property thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.  
Penalty, see § 91.99

**NUISANCES**

**§ 91.15 NUISANCE.**

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purposes of this chapter, a person who does any of the following is guilty of maintaining a nuisance:

(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 is guilty of maintaining a public nuisance which is a misdemeanor;

(B) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any one person or a few people of the public is guilty of maintaining a private nuisance which is a petty misdemeanor;

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

(D) Does any other act or omission declared by law or § 91.16 through 91.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.  
Penalty, see § 91.99

#### **§ 91.16 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 or disagreeable odors;

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

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

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

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

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

(L) All unnecessary and annoying vibrations; and

(M) Loud or annoying noises.

**§ 91.17 NUISANCES AFFECTING MORALS AND DECENCY.**

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

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized and permitted 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 or illegal substances are 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 consuming illegal substances, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section, *INTOXICATING LIQUOR* shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than 0.5% alcohol by volume. *ILLEGAL SUBSTANCES* shall mean those prohibited by state or federal law; and

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

Penalty, see § 91.99

**§ 91.18 NUISANCES AFFECTING PEACE AND SAFETY.**

The following are declared to be nuisances affecting 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; this includes the area which may be outside of the visibility triangle set for in § 154.156.

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

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

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

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

(G) 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;

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

(I) 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;

(J) 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;

(K) 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;

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

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

(N) Wastewater cast upon or permitted to flow upon streets or other public properties;

(O) 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;

(P) 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;

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

(R) 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;

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

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

(U) (1) *Noises prohibited.*

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

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

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

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

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

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 10:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 10:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of noise-generating hand tools or any kind of electric, diesel, pneumatic or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 10:00 p.m. on any weekend or holiday.

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

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

Penalty, see § 91.99

### § 91.19 NUISANCE PARKING AND STORAGE.

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

(B) *Unlawful parking and storage.*

(1) A person must not place, store or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer

than 24 hours in the front yard area of residential property unless more than 100 feet back from the front property line.

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

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

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

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

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

(4) Other than for loading or unloading for short durations, no person shall park motor vehicles, nor place, store or allow the placement for storage of any objects upon a City alleyway whether improved or unimproved.

Penalty, see § 91.99

#### **§ 91.20 INOPERABLE MOTOR VEHICLES.**

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

(B) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168.13, as it may be amended from time to time.

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

Penalty, see § 91.99

**§ 91.21 BUILDING MAINTENANCE AND APPEARANCE.**

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

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

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

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

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

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

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

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

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

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

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

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

Penalty, see § 91.99

**§ 91.22 DUTIES OF CITY OFFICERS.**

(A) *Plain view.* When a City Official is able to observe a nuisance violation from a public street, sidewalk, or neighboring property, a person can be charged with a nuisance violation. The observation must provide the Official all the information necessary to conclude that the nuisance condition exists.

(B) *Generally.* For purposes of this section and § 91.24, the McLeod County Sheriff may 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 nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

**§ 91.23 WRITTEN COMPLAINT REQUIRED.**

The Council must receive a formal written complaint of perceived nuisance before conducting an investigation and making a determination if a nuisance violation has occurred. The process for the handling of formal written complaints is set forth in the Municipal Complaint Policy adopted by the Council.

**§ 91.24 ABATEMENT.**

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

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

(2) *Notice of Council hearing.* Written notice of any 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 Council hearing, notice of Council hearing shall be served by posting it on the premises.

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

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

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the City, the officer or person designated 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 designated person shall report that fact forthwith to the Council. Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the Council, the City may seek injunctive relief from a court of competent jurisdiction by serving a copy of the Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement. The 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) above, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the 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 § 91.99

#### **§ 91.25 RECOVERY OF COST.**

(A) *Personal liability.* The owner and possessor of a premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk-Treasurer or other official shall prepare a bill for the cost and mail it to the owner and possessor. Thereupon, the amount shall be immediately due and payable at the office of the City Clerk-Treasurer.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets or unsound or insect-infected trees, the City Clerk-Treasurer shall list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The 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 Council may determine in each case.  
Penalty, see § 91.99

**WEEDS**

**§ 91.35 SHORT TITLE.**

This subchapter shall be cited as the Weed Ordinance.

**§ 91.36 JURISDICTION.**

This subchapter shall be in addition to any state statute or regulation or county ordinance presently in effect, subsequently added, amended or repealed.

**§ 91.37 DEFINITIONS; EXCLUSIONS.**

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

**DESTRUCTION ORDER.** The notice served by the Council or designated City official, in cases of appeal, on the property owner of the ordinance violation that shall conform to M.S. § 18.83, subd. 2, as it may be amended from time to time.

**MEADOW VEGETATION.** Grasses and flowering broad-leaf plants that are native to, or adapted to, the state, and that are commonly found in meadow and prairie plant communities, except weeds as defined herein. This vegetation may also be called butterfly gardens or natural vegetation.

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

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

(a) Noxious weeds and rank vegetation shall include, but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Haily Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye, Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion and Wild Parsnip;

(b) Grapevines when growing in groups and not pruned, sprayed, cultivated or otherwise maintained for two consecutive years;

(c) Bushes of the species of tall, common, or European barberry, further known as berberis vulgaris or its horticultural varieties;

(d) Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding eight inches;

(e) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;

(f) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops; and

(g) Any other weed designated by M.S. § 18.77, subd. 8, as it may be amended from time to time, as noxious.

(B) *Exclusions.* In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

### **§ 91.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

(A) All property owners shall be responsible for the removal, cutting or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of eight inches in height.

(B) Meadow vegetation, butterfly gardens and natural vegetation areas are prohibited without express authorization of the Council. The Council has the right to revoke any authorization at any time.

(C) In the case of a county drainage ditch, waterway, etc., the property owner is not responsible for weed control in those rights-of-way.

Penalty, see § 91.99

**§ 91.39 FILING COMPLAINT.**

Any person, including the City, who believes there is property located within the corporate limits of the City which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk-Treasurer. If the City makes the complaint, an employee, officer or Council member of the City shall file the complaint in all respects as set out above.

**§ 91.40 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the Council shall make an inspection and prepare a written report to the Council regarding the condition. The Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk-Treasurer or any other City agency. The notice shall be served in writing by certified mail. The notice shall provide that within ten regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk-Treasurer.

(2) A certified mailing by the City Clerk-Treasurer or others is deemed filed on the date of posting with the United States Postal Service.

**§ 91.41 APPEALS.**

(A) The property owner may appeal by filing written notice of objections with the Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the Council and shall be decided by a majority vote of the Council members in attendance and being at a regularly scheduled or special meeting of the Council.

**§ 91.42 ABATEMENT BY CITY.**

In the event that the property owner shall fail to comply with the "Destruction Order" within ten regular business days and has not filed a notice within 48 hours to the City Clerk-Treasurer of an intent to appeal, the Council may employ the services of City employees or outside contractors and remove the

weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property or has obtained a warrant issued by a court of competent jurisdiction.

#### § 91.43 LIABILITY.

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

(B) The property owner is responsible for all collection costs associated with weed destruction, including, but not limited to, court costs, attorney's fees and interest on any unpaid amounts incurred by the City. If the City uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk-Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the City.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

### ***OPEN BURNING***

#### § 91.60 DEFINITIONS.

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

***FIRE CHIEF, ASSISTANT FIRE CHIEFS and FIRE CAPTAINS.*** The Fire Chief, Assistant Fire Chiefs and Captains of the Fire Department which provides fire protection services to the City.

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

***RECREATIONAL FIRE.*** A fire set with approved starter fuel no more than three feet in height, contained within the border of a ***RECREATIONAL FIRE SITE*** using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before

quitting the occasion; and respecting weather conditions, neighbors, burning bans and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

**RECREATIONAL FIRE SITE.** A circle of no more than three feet in diameter (measured from the inside of the fire ring or border); completely surrounded by noncombustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a **RECREATION FIRE SITE** as defined herein. **RECREATIONAL FIRE SITES** shall not be located closer than 15 feet to any structure or combustible material.

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

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

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

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

#### § 91.61 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning of oils, petroleum fuels, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke such as, but not limited to, tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.

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

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

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings. Penalty, see § 91.99

#### **§ 91.62 PERMIT REQUIRED FOR OPEN BURNING.**

No person shall start or allow any open burning on any property in the City without first having obtained an open burning permit, except that a permit is not required for any fire which is a recreational fire as defined in § 91.60.

Penalty, see § 91.99

#### **§ 91.63 PURPOSES ALLOWED FOR OPEN BURNING.**

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

(1) Elimination of fire or health hazard that cannot be abated by other practical means;

(2) Ground thawing for utility repair and construction;

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical;

(4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives;

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical; and

(6) Running fires.

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources.

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

Penalty, see § 91.99

**§ 91.64 PERMIT APPLICATION FOR OPEN BURNING.**

Open burning permits shall be obtained by making application to the Department of Natural Resources (DNR) and/or McLeod County.

Penalty, see § 91.99

**§ 91.65 PERMIT PROCESS FOR OPEN BURNING.**

(A) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(B) Upon receipt of the completed open burning permit application and permit fee, the Fire Chief or Assistant Fire Chiefs, if he or she reasonably believes necessary, may require a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

**§ 91.66 PERMIT HOLDER RESPONSIBILITY.**

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

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Fire Department, MPCA representative, McLeod County representative or DNR forest officer.

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

Penalty, see § 91.99

**§ 91.67 REVOCATION OF OPEN BURNING PERMIT.**

An open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief or Assistant Fire Chiefs or McLeod County. Reasons for revocation include, but are not limited to, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit

being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 91.99

#### **§ 91.68 DENIAL OF OPEN BURNING PERMIT.**

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

#### **§ 91.69 BURNING BAN OR AIR QUALITY ALERT.**

(A) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the City.

(B) No recreational fire or open burn will be permitted when the City, county or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

Penalty, see § 91.99

#### **§ 91.70 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. §§ 88.16 to 88.22, as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

#### **§ 91.71 EXTERNAL SOLID FUEL-FIRED HEATING DEVICES (OUTDOOR WOOD BURNING STOVES).**

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

**EXTERNAL SOLID FUEL-FIRED HEATING DEVICE.** A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves and combination fuel furnaces or boiler which burn solid fuel.

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

***SOLID FUEL-FIRED HEATING DEVICES.*** Do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

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

(B) *External heating device.* The use of an external solid fuel-fired heating device is not allowed within the City.

(C) *Internal heating device.* The use of an interior solid fuel-fired heating device is not allowed in any non-primary residences, accessory buildings, or detached garages.

**§ 91.99 PENALTY.**

(A) Violation of any provision of this chapter deemed to be a public nuisance, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99.

(B) Violation of any provision of this chapter deemed to be a private nuisance, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a petty misdemeanor and punished as provided in § 10.99.



**TITLE XI: BUSINESS REGULATIONS**

**Chapter**

**110. TOBACCO**

**111. LIQUOR REGULATIONS**



## CHAPTER 110: TOBACCO

### Section

#### *General Provisions*

- 110.01 License
- 110.02 Fees
- 110.03 Grounds for denial
- 110.04 Prohibited sales
- 110.05 Licensee responsibility
- 110.06 Compliance checks and inspections

#### *Smoke-Free Public Spaces*

- 110.20 Definitions
- 110.21 Prohibitions
  
- 110.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 110.01 LICENSE.**

(A) *Prohibition.* No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related device without first having obtained a license to do so from the City.

(B) *Application.* An application for a license to sell tobacco, tobacco products or tobacco-related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses, telephone numbers and email addresses, the name of the business for which the license is sought and any additional information the City deems necessary. Upon receipt of a completed application, the City shall determine whether the applicant is eligible for a license and then forward the application to the Council for action at its next regularly scheduled Council meeting. If the City shall determine that an application is incomplete, it shall return the application to the applicant with notice of the information necessary to make the application complete.

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(C) *Action.* The Council may either approve or deny the license or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the City shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

(D) *Term.* The term of all licenses issued hereunder shall be from May 21 to the following May 20 or any part thereof.

(E) *Revocation or suspension.* Any license issued under this subchapter may be revoked or suspended if it is determined the licensee is in violation of any section of this chapter.

(F) *Transfers.* All licenses issued under this subchapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.

(G) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(H) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 20 days, but no more than 60 days, before the expiration of the current license. The issuance of a license issued under this subchapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Penalty, see § 110.99

**§ 110.02 FEES.**

No license shall be issued under this subchapter until the appropriate license fee shall be paid in full as specified in the fee schedule as adopted by the Council by resolution.

**§ 110.03 GROUNDS FOR DENIAL.**

(A) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

(B) The following shall be grounds for denying the issuance or renewal of a license under this subchapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license:

- (1) The applicant is under the age of 21 years;

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision or other regulation relating to tobacco or tobacco products or tobacco-related devices;

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco-related devices revoked within the preceding 12 months of the date of application;

(4) The applicant fails to provide any information required on the application, or provides false or misleading information; or

(5) The applicant is prohibited by federal, state or local law, ordinance or other regulation, from holding this type of a license.

#### **§ 110.04 PROHIBITED SALES.**

It shall be a violation of this subchapter for any person to sell or offer to sell any tobacco, tobacco products or tobacco-related devices to any person under the age of 21 years.

*Statutory reference:*

*Related provisions, see M.S. § 609.685*

#### **§ 110.05 LICENSEE RESPONSIBILITY.**

All licensees under this subchapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco-related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this chapter shall be construed as prohibiting the City from also subjecting the employee making the sale to whatever penalties are appropriate under this subchapter, state or federal law or other applicable law or regulation.

#### **§ 110.06 COMPLIANCE CHECKS AND INSPECTIONS.**

All licensed premises shall be open to inspection by McLeod County law enforcement during business hours. From time to time, but at least once per year, the county shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15, but less than 21, years, to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco-related devices. Minors used for the purposes of compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products or tobacco-related devices, when these items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit

compliance checks authorized by state or federal laws for education, research or training purposes or required for the enforcement of a particular state or federal law.

### ***SMOKE-FREE PUBLIC SPACES***

#### **§ 110.20 DEFINITIONS.**

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

***PUBLIC PLACE.*** A public park or trail, public recreation area and any publicly-owned property and buildings.

***SMOKING.*** Inhaling, exhaling or combustion of any tobacco or cannabis product, weed, plant or any other similar article, including any cigar, cigarette, pipe or any other similar article. ***SMOKING*** includes possessing or carrying a lighted cigar, cigarette, vaping device, pipe or any other lighted or heated smoking equipment. ***SMOKING*** includes carrying or using an activated electronic delivery device for human consumption through inhalation or aerosol or vapor from the product.

#### **§ 110.21 PROHIBITIONS.**

It is unlawful for any person to be smoking or using tobacco or cannabis products or electronic delivery devices (e-cigarettes, e-pipes, vape pens and the like) in a public place.  
Penalty, see § 110.99

#### **§ 110.99 PENALTY.**

(A) M.S. § 461.12, as it may be amended from time to time, is hereby adopted by reference as if set out in full herein and as may be amended from time to time.

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

## CHAPTER 111: LIQUOR REGULATIONS

### Section

#### *General Provisions*

- 111.01 Adoption of state law by reference
- 111.02 City may be more restrictive than state law
- 111.03 Definitions
- 111.04 Nudity on the premises of licensed establishments prohibited
- 111.05 Consumption in public places

#### *Licensing*

- 111.20 Number of licenses which may be issued
- 111.21 Term and expiration of licenses
- 111.22 Kinds of liquor licenses
- 111.23 License fees; pro rata
- 111.24 Council discretion to grant or deny a license
- 111.25 Application for license
- 111.26 Description of premises
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- 111.28 Transfer of license
- 111.29 Investigation
- 111.30 Hearing and issuance
- 111.31 Restrictions on issuance
- 111.32 Conditions of license
- 111.33 Hours and days of sale
- 111.34 Minors on premises
- 111.35 Restrictions on purchase and consumption
- 111.36 Suspension and revocation
  
- 111.99 Penalty

**GENERAL PROVISIONS****§ 111.01 ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the Council that all future amendments to M.S. Ch. 340A, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

**§ 111.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within the City's corporate limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

**§ 111.03 DEFINITIONS.**

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter.

**LIQUOR.** As used in this chapter, without modification by the words "intoxicating" or "3.2% malt", includes both intoxicating liquor and 3.2% malt liquor.

**RESTAURANT.** An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a **RESTAURANT** as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a "category 1 establishment", "category 2 establishment" or "category 3 establishment" as defined in M.S. § 157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of "category 1 establishment", "category 2 establishment" or "category 3 establishment".

**§ 111.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

(A) The Council finds that it is in the best interests of public health, safety and general welfare of the people of the City that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the City.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine or 3.2% malt liquor license or the imposition of a civil penalty under the provisions of § 111.99(B).

Penalty, see § 111.99

**§ 111.05 CONSUMPTION IN PUBLIC PLACES.**

No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises as set out in § 111.26 of an establishment licensed under this chapter, in a municipal liquor dispensary, if one exists, in the City, or where the consumption and display of liquor is lawfully permitted.

Penalty, see § 111.99

**LICENSING**

**§ 111.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.**

State law establishes the number of liquor licenses that a City may issue. However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council, in its sound discretion, may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended

from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that the City has available.

#### **§ 111.21 TERM AND EXPIRATION OF LICENSES.**

Each license shall be issued for a maximum term of one year. All licenses, except temporary licenses, shall expire on May 20 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying City consent to the permit, shall expire on March 31 of each year.

#### **§ 111.22 KINDS OF LIQUOR LICENSES.**

The Council of a City that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 111.20:

(A) 3.2% malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks;

(B) 3.2% malt liquor off-sale licenses;

(C) Temporary malt liquor licenses which may be issued only to a club, charitable, religious or nonprofit organization, as authorized by M.S. § 340A.404, subd. 1, as it may be amended from time to time;

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 111.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, subd. 3, as it may be amended from time to time;

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 111.23 shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may, in its sound

discretion, authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the City under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in a youth amateur athletic event for persons 18 years of age or younger being held on the premises;

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 111.03, club, bowling center or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 111.23, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, subd. 3c, as it may be amended from time to time;

(G) Combination on-sale/off-sale intoxicating liquor licenses if the City has a population less than 10,000;

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the City shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year;

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 111.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 111.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license;

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the City sponsored by the organization; or

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 111.23 shall not exceed

\$300, or the maximum amount permitted by M.S. § 340A.14, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

### **§ 111.23 LICENSE FEES; PRO RATA.**

(A) No license or other fee established by the City shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees, and any investigative expenses, shall be paid in full at the time the application is filed with the City. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, subd. 5, as it may be amended from time to time.

### **§ 111.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.**

The Council, in its sound discretion, may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

### **§ 111.25 APPLICATION FOR LICENSE.**

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the City. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with such references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place and such other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the City. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the City and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the City at all times effective proof of financial responsibility is a cause for revocation of the license.

Penalty, see § 111.99

**§ 111.26 DESCRIPTION OF PREMISES.**

The application shall specifically describe the extent of contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot. The description may include for consumption only, the sidewalk directly in front of the establishment, where smoking is permitted, within the property lines of the establishment, as authorized by the Council. Said authorization can be revoked at any time by the Council. No seating of any kind may be placed on the sidewalk.

**§ 111.27 APPLICATIONS FOR RENEWAL.**

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the City. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

**§ 111.28 TRANSFER OF LICENSE.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Penalty, see § 111.99

**§ 111.29 INVESTIGATION.**

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal or transfer of a license, the City may conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay, with the application, an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary

investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

#### § 111.30 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

#### § 111.31 RESTRICTIONS ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the City to any one person.

(C) No license shall be granted or renewed for operation on any premises on which property taxes, assessments, utility charges, service charges or other financial claims of the City are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

Penalty, see § 111.99

### § 111.32 CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. Proof of training shall be provided by the licensee, if requested by Council or any other enforcement agency.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, City employee or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

Penalty, see § 111.99

### § 111.33 HOURS AND DAYS OF SALE.

(A) No sale of intoxicating liquor shall be made during the time when the sale is prohibited by state law as set forth in M.S. § 340A.504, as it may be amended from time to time.

(1) *Hours of operation.* No on-sale shall be made between the hours of 1:00 a.m. and 8:00 a.m., Monday through Saturday. No off-sale shall be made before 8:00 a.m. nor after 10:00 p.m., Monday through Saturday. No off-sale shall be made on Sundays, except between the hours of 11:00 a.m. and 6:00 p.m., Thanksgiving Day, Christmas Day, December 25 or after 8:00 p.m. on December

24, unless December 24 is a Sunday, in which case no sales are allowed. No cigars, cigarettes, tobacco or non-intoxicating malt beverages, or soft drinks shall be sold in any exclusive liquor store during the hours when the sale of intoxicating liquor is prohibited in the store.

(2) *Sunday sale of intoxicating liquor.* No on-sale of intoxicating liquor shall be made after 1:00 a.m., except for a holder of a current Sunday liquor license under this code which may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. Sundays and 1:00 a.m. Mondays, provided the licensee is in conformance with the Minnesota Clean Air Act.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

Penalty, see § 111.99

#### § 111.34 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant or attend social functions that are held in a portion of the premises where liquor is not sold.

Penalty, see § 111.99

**§ 111.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

Penalty, see § 111.99

**§ 111.36 SUSPENSION AND REVOCATION.**

(A) The Council may either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which may be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor or violation of § 111.04, the license shall be revoked;

(2) The license may be suspended by the Council after a finding under division (A) above that the licensee has failed to comply with any applicable statute, rule or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed;

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed;

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed; or

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the City Clerk-Treasurer, a hearing before the Council shall be granted within ten days. Any suspension under division (B) above shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 111.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.  
Penalty, see § 111.99

#### § 111.99 PENALTY.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

- (1) For the first violation within any three-year period, \$500;
- (2) For the second violation within any three-year period, \$1,000; or
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term *VIOLATION* as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

**TITLE XIII: GENERAL OFFENSES**

Chapter

- 130. CLANDESTINE DRUG LAB AND CHEMICAL  
DUMP SITES**
- 131. CURFEW FOR MINORS**
- 132. WEAPONS/FIREARMS**
- 133. CANNABIS**



**CHAPTER 130: CLANDESTINE DRUG LAB AND CHEMICAL DUMP SITES**

Section

130.01 Adoption

**§ 130.01 ADOPTION.**

The McLeod County cleanup of clandestine drug lab sites ordinance is hereby adopted by reference as if set out in full herein and as may be amended from time to time.



## **CHAPTER 131: CURFEW FOR MINORS**

### **Section**

#### **131.01 Adoption**

#### **§ 131.01 ADOPTION.**

The McLeod County curfew for minors ordinance as currently stated and as may be amended from time to time is hereby adopted by reference as if set out in full herein.



## CHAPTER 132: WEAPONS/FIREARMS

### Section

- 132.01 Definitions
- 132.02 Use restricted
  
- 132.99 Penalty

### § 132.01 DEFINITIONS.

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

**CROSSBOWS** and **BOWS**. Any instrumentality designed to fire a missile, dart, projectile, arrow or a similar device by the use of tension upon a string, spring, wire, cable or tether, and shall include hand bows, foot bows, crossbows, gunbows or any other similar device whether or not the same were designed and manufactured for such a purpose or designed for some other purpose, but put to such a use.

**FIREARMS**. Any form of shot gun, rifle, pistol, revolver or combination thereof designed to shoot a bullet, pellet, slug or projectile by an explosion of gun powder in any form, and whether the instrument was specifically designed or manufactured for such purpose, or designed for some other purpose, but put to such a use.

**PELLET GUNS** and **BB GUNS**. Any form of a gun or similar device designed to shoot a pellet, BB, buckshot or other projectile by the use of compressed gas, tension or springs, whether the device was designed and manufactured for such purpose or designed for some other purpose, but put to such a use.

### § 132.02 USE RESTRICTED.

(A) It shall be unlawful for any person to carry or shoot (discharge) any firearm, airgun, pellet gun, BB gun or crossbows and bows within the corporate limits of the City, unless:

(1) The firearm is encased in a transportable case or container, unloaded, and the mechanical safety device is activated so that the firearm cannot be discharged; and

(2) A permit is obtained by the owner to carry that firearm.

(B) Nothing in this section shall be construed to prohibit any firing of a gun, pistol or firearm when done in the lawful defense of person, property or family or necessary enforcement of the law.  
Penalty, see § 132.99

**§ 132.99 PENALTY.**

Any violation of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

## **CHAPTER 133: CANNABIS**

### **Section**

#### **133.01 Adoption**

#### **§ 133.01 ADOPTION.**

The McLeod County cannabis ordinance as currently stated and as may be amended from time to time is hereby adopted by reference as if set out in full herein.

