

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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DOGS AND CATS

§ 90.01 REGULATION.

The City Council determines that it is in the best interests of the citizenry and in the interests of the public safety, health, and welfare, that the keeping of dogs and cats within the city limits be regulated and the same shall further be licensed pursuant to certain restrictions.

§ 90.02 RUNNING AT LARGE PROHIBITED.

It is unlawful for any person who is the owner, or other person in possession, of a dog or cat to permit the dog or cat to run at large. For the purpose of this section the term ***AT LARGE***

means off the premises of the owner and either not under the direct and complete control of the owner or not on a leash, cord, or chain of not more than ten feet in length and also under the control of the accompanying person.

(Ord. 218; Passed 6.12.89) Penalty, see § 90.99

§ 90.025 REGULATION OF PARKS.

It shall be unlawful for any person in a public park or recreation area to:

(A) Bring or have a dog, cat, ferret, raccoon, skunk, snake or bird of prey in any City parks except in connection with a written permit therefor from the City Administrator. Provided, however, this prohibition shall not apply to a blind person accompanied by a seeing-eye dog.

(B) Dogs will only be permitted in Lakeview Park on the road serving as the perimeter of the park, provided that the dogs are under the control of a person by leash, cord or chain and in the event any dog discharges or deposits any feces or other waste matter in the park, the person in control of such dog shall immediately remove and lawfully dispose of such matter.

(Amended 7-12-2010)

§ 90.03 DECLARATION OF NUISANCE.

The owner or person keeping a dog or cat shall prevent the dog or cat from committing in the city any act which constitutes a nuisance. These acts shall include, but shall not necessarily be limited to the following.

(A) Running at large, which means that the dog or cat is off the premises of the owner or person keeping it. This restriction shall not prohibit the appearance of a dog or cat off the premises when on a leash no longer than ten feet in length, and while under the control of an accompanying person.

(B) Habitually and frequently barking, howling, or crying. Habitual barking, howling or crying shall be defined as barking, howling or crying or any combination thereof for repeated intervals of at least five minutes with less than one minute of interruption. The barking, howling or crying must also be audible off the owner's or caretaker's premises

(C) Attacking, molesting or annoying any person or other animal.

(D) Damaging, defiling or destroying public or private property.

(Ord. 218, passed 6-12-89) Penalty, see § 90.99

§ 90.04 IMPOUNDMENT.

The official dog and cat catcher of the city and every police officer shall impound any dog or cat found unlicensed or running at large, and shall give notice of the impounding to the owner of the dog or cat if known. If the owner is unknown, the dog and cat catcher or officer shall post

notice at the City Administrator's office that if the described dog or cat is not claimed within five regular business days of the posting of the notice, it will be killed. If an unlicensed animal or an animal running at large is a dangerous dog as defined by state law or vicious dog as defined by § 90.12, it shall be kept seven days, and if an unlicensed animal or animal running at large is an improperly cared for animal it shall be kept for ten days, and the notice shall state the time that the animal shall be kept. If the dog or cat is not claimed within the time specified and all fees and charges duly paid, the official dog and cat catcher or police officer shall kill the dog or cat and dispose of the body immediately. The official dog and cat catcher shall house and feed in a humane manner any dog or cat held at the pound.

(Ord. 218, passed 6-12-89)

§ 90.05 RELEASE FROM IMPOUNDMENT.

Except as otherwise provided herein, dogs and cats shall be released to their owners or persons previously in possession of them upon payment of all impounding fees and payment of the current licensing fee. The above notwithstanding, the owner of any dog or cat seized and the individual applying for and actually receiving a license for the dog or cat shall be responsible for any and all licensing fees, impoundment fees, vaccination fees, boarding fees, and other similar maintenance fees accrued while the animal is in impoundment. It shall be the owner's responsibility to pay for all fees for the necessary period of impoundment, and in the event that the dog or cat is not redeemed, and until the animal is sold or destroyed, the fees shall be the responsibility of the owner. However, the owner will receive a credit towards these fees for any amounts actually received upon the sale of the dog or cat.

(Ord. 218, passed 6-12-89)

§ 90.06 LICENSING, BOARDING AND IMPOUNDMENT FEES.

(A) *Setting of fees.* The City Council may from time to time by resolution designate impoundment fees and boarding rates to reflect the costs of those items. The owner of the dog or cat shall further be required to reimburse the city for any and all expenses incurred while the dog or cat is in impoundment. The City Council may also charge additional fees for a dog or cat impounded a second time within three months. (Ord. 218, passed 6-12-89)

(B) *Dog and cat licensing and boarding fees.*

- (1) Dog and cat lifetime license fee: \$ 5.
- (2) Dog and cat impounding fee: \$20.
- (3) Boarding fees:
 - (a) Cat: \$6.30/day
 - (b) Dog: \$7.85/day

(Res. 94.03, passed 1-11-94)

§ 90.07 LICENSE NOTICE.

Any notice to the owner or individual who applied for a license for the dog or cat may be given either by personal notice verified by affidavit of service or by written notice forwarded via the United States mail to the address noted on the application for a license maintained by the licensing official. Should the address of the owner or applicant for the license change while the license is in effect, it shall be the obligation of that person to keep the licensing official informed of the change.

(Ord. 218, passed 6-12-89)

§ 90.08 EXCEPTIONS TO FEES.

The licensing fees required by this subchapter shall not apply to dogs certified and trained to assist visually or other handicapped individuals.

(Ord. 218, passed 6-12-89)

§ 90.09 IMMOBILIZATION.

For the purpose of enforcement of this section, any police officer, animal control officer, or other person assisting a police officer or animal control officer may use a tranquilizer gun or other instrument for the purpose of immobilizing or catching a dog or cat. The usage of a tranquilizer gun or similar instrument shall be used only after the Chief of Police has determined that all other reasonable methods or attempts to control the animal are exhausted, or the Chief of Police or acting Chief of Police determines that the animal sought to be controlled is deemed dangerous.

(Ord. 218, passed 6-12-89)

§ 90.10 DANGEROUS ANIMALS.

It is unlawful for any person to own or keep a dog or cat which causes an injury to a police officer or other person. Any dog or cat which causes any injury shall be deemed dangerous and may be impounded for a period of at least 21, days or until the veterinarian monitoring the dog or cat, or physician treating the injured person directs its release. Prior to release, the owner or person previously in possession shall pay the impounding fees. For the purpose of this section, a dog or cat which cannot be impounded with safety to a police officer or other person shall also be deemed dangerous and may be summarily destroyed.

(Ord. 218, passed 6-12-89) Penalty, see § 90.99

§ 90.11 REGULATION OF VICIOUS DOGS.

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

OWNER. Any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

UNCONFINED. A vicious dog is **UNCONFINED** if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

VICIOUS DOG.

(a) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals.

(b) Any dog which, because of its size, physical nature, or vicious propensity, is capable of inflicting serious physical harm or death to humans, and which would constitute a danger to human life or property if it were not kept in the manner required by this section.

(c) Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal.

(d) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(B) *Confinement.* The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

(C) *Leash and muzzle.* The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(D) *Signs.* The owner of a vicious dog shall display, in a prominent place on his or her premises, a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(E) *Dog fighting.* No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(F) *Insurance.* Owners of vicious dogs must provide proof to the City Administrator of public liability insurance in the amount of at least \$25,000, insuring the owner for any personal injuries inflicted by his or her vicious dog.

(Ord. 214, passed 5-23-88) Penalty, see § 90.99

§ 90.12 OWNER RESPONSIBILITY.

The owner or person in control of a dog or cat who is not on the premises wherein the animal resides shall be required to maintain the cleanliness of the animal, and should the animal deposit feces on either a public right-of-way or any public property or upon the property of a private landowner, the person in control of the animal shall be required to immediately clean up the feces and deposit them in an appropriately maintained trash receptacle on the premises of the owner.

(Ord. 218, passed 6-12-89) Penalty, see § 90.99

§ 90.13 ADOPTION OF MINNESOTA STATUTES.

The city adopts the provisions of M.S. Chapters 346 and 347 as they presently exist and as they may be hereafter amended or revised. To the extent that other provisions of this subchapter are more restrictive than these statutes, the more restrictive provisions of this subchapter shall apply.

(Ord. 218, passed 6-12-89)

§ 90.14 VIOLATION.

It shall be considered a misdemeanor for any person to violate any of the provisions of this subchapter, and any violation may receive the maximum penalty authorized for the commission of a misdemeanor as determined by Minnesota Statutes.

(Ord. 218, passed 6-12-89)

NON-DOMESTIC ANIMALS

§ 90.25 DEFINITION.

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

NON-DOMESTIC ANIMAL. Any wild animal, reptile, or fowl, which is not naturally tame, but is of a wild nature or disposition, or which because of its size or other characteristics would constitute a danger to human life or property.

(Ord. 253, passed 3-27-00)

§ 90.26 PROHIBITED ANIMALS; SALE.

(A) No person shall keep, maintain or harbor within the city any of the following animals.

(1) Any animals or species the keeping of which is prohibited by state or federal law.

(2) Any non-domestic animal or species, including, but not limited to the following.

(a) Any skunk, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies.

(b) Any large cat of the family *Felidae* such as lions, tigers, jaguars, and ocelots, except commonly accepted domesticated house cats.

(c) Any member of the family *Canidae*, such as wolves, foxes, coyotes, dingos and jackals, except domestic dogs.

(d) Any crossbreed such as the crossbreeds between dogs and coyotes, or dogs and wolves, but does not include crossbred domestic dogs.

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

(f) Any raccoon.

(g) Any ferret which has not been vaccinated for rabies.

(h) Any monkey or other primate.

(i) Any other animal which is not listed explicitly above, but which can be reasonably defined by the term in § 90.25, including bears and badgers.

(B) No person shall offer for sale, within the city limits, any animal prohibited in division (A) of this section.

(Ord. 253, passed 3-27-00) Penalty, see § 90.99

§ 90.27 EXCEPTIONS.

The following are exempt from the prohibition of § 90.26.

(A) Non-poisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, or lizards. Similar small animals capable of being maintained continuously in cages are also exempt from this subchapter, provided that the manner of keeping does not constitute a nuisance.

(B) Handicapped persons keeping monkeys trained as household helpers are exempt.

(C) Traveling exhibitions which keep wild animals for exhibition or show, provided that the person, traveling circus zoo or show has obtained a state permit or is exempt from this requirement pursuant to M.S. § 97a.41, as it may be amended from time to time and provided that the animals are not kept in the city more than 14 days per year.

(D) Animals in the custody of licensed veterinarians.

(E) Falcons and other birds of prey kept by state and federally licensed falconers.

(Ord. 253, passed 3-27-00)

§ 90.28 IMPOUNDMENT.

Any non-domestic animal kept in violation of this subchapter may be impounded by the city, and, after being so impounded for three days or more without being reclaimed by the owner, may be destroyed or sold. Any person reclaiming any impounded animal shall pay the costs of impounding and keeping the same.

(Ord. 253, passed 3-27-00)

§ 90.29 EXISTING NON-DOMESTIC ANIMALS.

Anyone keeping or maintaining any non-domestic animal at the time this subchapter is adopted has 90 days in which to comply with the provisions of this subchapter. Extensions beyond 90 days may be granted for just cause by the City Council.

(Ord. 253, passed 3-27-00) Penalty, see § 90.99

§ 90.30 VIOLATION.

Violation of any provision of this subchapter shall be a misdemeanor.

(Ord. 253, passed 3-27-00)

§ 90.99 PENALTY.

Anyone who violates any provision of this chapter for which no penalty is specified shall be subject to the terms of § 10.99.

CHAPTER 91: NUISANCES

Section

- 91.00 Definitions
- 91.01 Public nuisance
- 91.02 Public nuisances affecting health
- 91.03 Public nuisances affecting morals and decency
- 91.04 Public nuisances affecting peace and safety
- 91.05 Duties of city officers
- 91.06 Abatement
- 91.07 Recovery of cost
- 91.08 Weeds, grass, brush, and other rank, poisonous, or harmful vegetation
- 91.09 Nuisance Parking and Storage
- 91.10 Habitual Nuisance
- 91.99 Penalty

§ 91.00 DEFINITIONS.

The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this code, have the meanings shown herein.

ABANDONED BUILDING. Any building or portion of a building that has stood with an incomplete exterior shell for longer than one (1) year or any building or portion thereof which has stood unoccupied for longer than one (1) year which meets one or more of the following criteria:

- (A) Unsecured;
- (B) Boarded;
- (C) Having multiple exterior Housing, Fire, or Building Code violations; or
- (D) Placarded ex “Unfit for Human Habitation.”

ABANDONED VEHICLE. A motor vehicle that lacks vital component parts or is in inoperable condition such that it has no potential for further use, unless it is kept in an enclosed garage or storage building.

BASEMENT. The portion of a building which is partly or completely below grade.

DANGEROUS STRUCTURE. Any structure that is potentially dangerous to persons or property including, but not limited to, the following:

- (A) A structure which is in danger of partial or complete collapse;
- (B) A structure which has any exterior parts such as chimneys, eaves, porches, siding, railings, or trim that are loose or in danger of falling;
- (C) A structure that has any parts such as porches, stairs, ramps, rails, balconies, or roofs which are accessible and which are either collapsed, in danger of collapsing, or unable to support a person.

DECIBEL “dB”. The unit for measuring the relative loudness of sound.

ENFORCEMENT OFFICER. An employee of the City designated by the City Administrator as a duly authorized representative charged with nuisance complaint investigation and abatement; including, but not limited to, the Chief of Police, the Public Works Director, the City Planner, and Building Inspector.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owner(s) or operator(s) of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITUAL NUISANCE. Any premise or property under the same owner that generates three (3) or more citations for violation under §§ 91.00 through 91.09 within a twelve (12) month time period shall be deemed a “habitual nuisance” until the premise or property is without a nuisance violation for twenty-four (24) consecutive months.

HAZARDOUS BUILDING. Any building or property, as described in law or Minnesota Statute 463.15, as it may be amended from time to time, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

JUNK. Old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

JUNK VEHICLE. A motor vehicle that is extensively damaged; apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal to only the approximate value of the scrap in it.

NOISE. Any activity which creates or produces sound, regardless of frequency, that exceeds the ambient noise levels at the property line of any property (or if a condominium or apartment house within any adjoining apartment).

NOXIOUS WEED. An annual, biennial, or perennial plant the Minnesota Commissioner of Agriculture designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

OCCUPANT. Any person living or sleeping in a building; or having possession of a space within a building.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property: or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PREMISE. A lot, plot or parcel of land including any structures thereon.

PUBLIC NUISANCE. Includes any of the following:

(A) The physical condition or occupancy of any premises regarded as a public nuisance at common law;

(B) Any physical condition of occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to: abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(C) Any premises that has unsanitary sewerage or plumbing facilities;

(D) Any premises designated as unsafe for human habitation;

(E) Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured so as to endanger life, limb, or property;

(F) Any premises from which the plumbing, heating or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;

(G) Any premises that is unsanitary, or that is littered with rubbish or garbage, or that has an uncontrolled growth of weeds; or

(H) Any structure that is in a state of dilapidation, deterioration or decay; faulty construction: overcrowded: open, vacant or abandoned; damaged by fire to the extent so as not to

provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the premises.

RECREATIONAL VEHICLE. A currently licensed motorized or non-motorized conveyance that includes, but is not limited to, motor homes, travel trailers, folding tent trailers, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, utility trailers, and similar vehicles.

RUBISH. Combustible and noncombustible waste materials; except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

UNAUTHORIZED VEHICLE. A motor vehicle that is subject to removal and impoundment under the law, but does not fall within the definition of an abandoned or junk vehicle.

YARD. An open space on the same lot with a structure.

§ 91.01 PUBLIC NUISANCE.

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

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

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

(C) Is guilty of any other act or omission declared by law or §§ 91.02, 91.03 or 91.04, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 91.99

§ 91.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
- (E) Accumulations of manure, refuse or other debris;
- (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- (H) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (I) All public exposure of people having a contagious disease; and
- (J) Any offensive trade or business as defined by statute not operating under local license.
- (K) Any vacant or unoccupied building that is deemed hazardous due to the fact that the building is open to trespass and/or vermin infestation and has not been secured. The City Council may order the property owner to secure said property per Minnesota Statute §463.251, as it may be amended from time to time.

Penalty, see § 91.99

§ 91.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

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

Penalty, see § 91.99

§ 91.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

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

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

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

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

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

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above in all zoning districts EXCEPT B-2 Central Business between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.

Operation of any device referred to above in the B-2 Central Business between the hours of 12:30 a.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of fifty (50) feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.

The regulations in 91.04 (F) do not apply to the following:

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

(2) Church celebrations, church bells, chimes or carillons, school bells, or emergency civil defense warning signals;

(3) Anti-theft devices;

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

(5) Snow removal or other authorized activity that will improve the safety of residents and surrounding areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

(T) The depositing of garbage or refuse on public property or on adjacent private property;

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

(V) All use of skateboards, roller blades and bicycles is prohibited on all Main Street sidewalks. In addition, these uses are prohibited in the entire Central Business District, including parking lots.

(W) All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to an extent exceeding one-half (1/2) their original value, or which are so situated as to endanger the safety or health of the public. The City Council may order the owner of any hazardous building to correct or remove the hazardous condition of the building or property or to raze or remove the building per Minnesota Statute §463.16, as it may be amended from time to time. The City Council may also order the City Administrator (or his/her designee) to correct or remove the hazardous condition; the cost of which shall be charged against the real estate as provided in Minnesota Statute §463.161 and §463.21, as they may be amended from time to time.

(Am. Res. 2002-38, passed 10-28-02)

Penalty, see § 91.99

§ 91.05 DUTIES OF CITY OFFICERS.

The City Administrator or his/her designated enforcement officer shall enforce the provisions relating to nuisances.

§ 91.06 ABATEMENT.

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

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

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

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

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

(B) *Summary Enforcement Procedure.* Whenever the City Administrator or his/her designated enforcement officer determines that a public nuisance is being maintained or exists on the premises in the city, the City Administrator or his/her designated enforcement officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the City Administrator or his/her designated enforcement officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(C) *Emergency abatement procedure.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Administrator may order summary enforcement and abate the nuisance. To proceed with emergency abatement, the City Administrator or his/her designated enforcement officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The City Administrator or his/her designated enforcement officer shall make a good faith effort to notify the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek emergency abatement. Following an emergency abatement, as soon as the costs incurred are known to the City Administrator, the City Administrator shall serve written notice upon the owner. The notice shall contain: a) a description of the real estate sufficient for identification, b) the location and description of the nuisance, c) the remedial action taken by the City, d) the reasons for immediate action, e) the costs incurred in abating the nuisance, and f) a statement that the owner may request, by writing to the City Administrator within twenty (20) calendar days of the date of the notice, a hearing at which the City Council shall review the actions taken by the City. In the event that the owner files a request for a review of the action with the City Administrator, the City Council shall within three (3) weeks fix a date for a public hearing. The City Administrator shall inform the enforcement officer and the owner of the date, time, place and subject of the hearing. At the time of the hearing, the City Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the City Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the City in abating the nuisance. The City Administrator shall give a copy of the resolution to the enforcement officer and shall mail a copy to the owner.

(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

§ 91.07 RECOVERY OF COST.

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

(B) *Assessment.* If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 91.99

§ 91.08 WEEDS, GRASS, BRUSH, AND OTHER RANK, POISONOUS, OR HARMFUL VEGETATION.

(A) *Removal of Vegetation.* It shall be unlawful for any owner, lessee or occupant having control of any occupied or unoccupied parcel of land or any part thereof in the City of Janesville to permit or maintain on any such parcel or along the sidewalk, street or alley adjacent to the same any growth of weeds, grasses, brush or other rank vegetation to a height greater than twelve (12) inches on average or any accumulation of dead weeds, grasses or brush.

(B) *Vegetation Elimination.* Any weeds or grasses whether noxious or not, as defined by State law, growing to a height greater than twelve (12) inches, or which have gone, or are about to go to seed, regardless of height, are a nuisance. For the purposes of this section, “owner” shall refer to the person or corporation listed as such in the records of Waseca County. Abatement of the nuisance shall cause the complete killing of the weeds or grasses, or controlling of the weeds or grasses above the surface of the earth by the use of cutting, chemicals, tillage, or cropping system.

(C) *Notice of Noncompliance.* In the event the owner of any property in the City of Janesville permits a weed, grass, brush, or other rank, poisonous, or harmful vegetation nuisance to exist, the City shall serve a Notice of Noncompliance upon the owner of the property by certified mail. The notice shall order the owner or occupant abate the nuisance within seven (7) days upon receipt of the notice. If the owner or occupant does not comply with such order, the necessary work will be performed by the City at the expense of the owner. If the owner does not pay for such expense, the cost of the work will be assessed against the property benefited.

(D) *Performance of work by the City of Janesville – Billing Procedures.* If the owner or occupant of any property within the City of Janesville fails within seven (7) days after receipt of the Notice of Noncompliance to comply with the order pursuant to Section C, the City shall maintain a record showing the cost of such work attributable to each separate parcel, prepare and mail to such owner an invoice setting forth the charge for such work, which charge shall be immediately due and payable at the office of the City Administrator. The cost of such work shall be determined by the City fee schedule at the time work was performed.

(E) *Assessment.* On or before October 1 of each year, the City of Janesville shall list total unpaid charges for each type of such work against each separate lot or parcel to which such charges are attributable pursuant to this section. The City Council may then assess such charges against property benefited as a special assessment, pursuant to the provisions of Minnesota Statutes, Chapter 429, for certification to the County Auditor, and collection, together with the current property taxes for the following year.

(Adopted by the City Council May 14, 2012)

§ 91.09 IMPROPER OUTSIDE STORAGE AND UNLAWFUL PARKING.

(A) *Declaration of Nuisance.* All materials, machinery, vehicles, and equipment that: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, or (6) otherwise adversely affects property values and neighborhood patterns shall be declared a nuisance.

(B) *Improper Outside Storage.*

(1) A person must not place, store, or allow the placement or storage of ice fishing houses, recreational vehicles, all-terrain vehicles, snowmobiles, boats, trailers, skateboard ramps, kennels, firewood, refuse containers or other similar non-permanent structures in the front yard of a residential property continuously for longer than forty-eight (48) hours.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, mineral materials, automotive parts, or similar materials, including all materials used in conjunction with a business in the front yard of a residential property. All materials in the side and rear yard must be shielded from public view by an opaque cover or fence and must be maintained so as to not to be in violation of § 91.04 (P).

(C) *Unlawful Parking.*

(1) A person must not place, store, or allow the placement or storage of a combined total of not more than three (3) recreational vehicles, trailers, boats over fourteen (14) feet in length, snowmobiles, and all-terrain vehicles in the side or rear yard of the property and must be maintained so as to not to be in violation of § 91.04 (P).

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

(a) Vehicles that are parked or stored outside in the front, side, or rear yard areas must be on a paved or graveled parking surface or driveway area and must not interfere with, obstruct or render dangerous for passage of any public highway, right-of-way, or waters used by the public. The vehicle(s) must appear to be operable with current registration plate.

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

(c) Temporary outside storage, not exceeding thirty (30) days, in appropriate commercial or industrial zones only, while awaiting repair work thereon.

(D) *Exceptions for Improper Outside Storage and Unlawful Parking.*

(a) In those cases where the City Council deems it appropriate, exceptions may be granted for improper outside storage and unlawful parking when associated with a home occupation subject to obtaining a Conditional Use Permit or Interim Use Permit in accordance with the provisions of § 152.241 of the Zoning Ordinance.

§ 91.10 HABITUAL NUISANCE.

(A) *Penalty for Habitual Nuisance.* Any property determined to be a habitual nuisance shall be subject to an administrative fine at three (3) times the amount provided by the City fee schedule. The fine will be imposed upon notice of the third cited violation within a twelve (12) month time period. The premise or property is subject to fine after each subsequent violation until the premise or property is without a nuisance violation for twenty-four (24) consecutive months.

(B) *Notice of Nuisance.* A building or premises may not be declared a habitual nuisance nor may the fine be collected unless notice to the responsible person has been given. Notice that a property may be declared a habitual nuisance shall be stated on the face of an administrative citation or through some other documentation delivered to the responsible person. The notice shall state that future responses to the property may result in the property being declared a habitual nuisance, subject to a fine.

(Ord. 2016-B, passed 7-25-16)

§ 91.99 PENALTY.

Any person convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be punished as provided for in § 10.99.

CHAPTER 92: PARKS AND RECREATION

Section

Lakeview Park

- 92.01 Parking
- 92.02 Boat landing area; dock
- 92.03 Use of boats; mooring
- 92.04 Swimming dock; bath houses
- 92.05 Fishing in park
- 92.06 Vehicle regulations
- 92.07 Picnic area
- 92.08 Fires prohibited; exception
- 92.09 General use of park
- 92.10 Snowmobiles prohibited
- 92.11 Hours of operation
- 92.12 Damage to park prohibited

§ 92.01 PARKING.

No parking of any vehicle shall be allowed at any time in any area of the park marked with No Parking signs or with posts painted yellow. No vehicles shall be backed into the lake with boat trailers attached and so parked. Vehicles with boat trailers or trailers of any kind used for transporting boats shall be parked facing west in the area across from the boat landing area. No boat trailers or trailers used for transporting boats shall be detached from a vehicle and left backed into the lake, but shall be parked in the area across from the boat landing area. No vehicles shall be parked parallel with the lake, nor shall any vehicle or trailer be parked in the boat landing area at any time.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.02 BOAT LANDING AREA; DOCK.

(A) All boats shall be unloaded and/or loaded in the area designated as the boat landing area. No parking is allowed in this area at any time. Vehicles and trailers shall be removed as quickly as possible after boats are unloaded or loaded and the vehicle and trailer parked as herein designated.

(B) No fishing shall be allowed at any time by any person from the boat dock. This dock is provided for the use of boat operators only. No water skis may be left on the dock. Boats may not be tied up to this dock for a period of longer than ten minutes. Persons wishing to

temporarily take their boat out of service shall beach the same in the area provided immediately north of the boat landing area.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.03 USE OF BOATS; MOORING.

(A) No boats shall be tied up, docked or moored along the shore from the entrance of the park to the place designated as the Point. Overnight mooring of boats may be made only north of the Point.

(B) No operator of any power boat (speed boat) or operator of any motor boat used for fishing or for any purpose shall violate the laws of the state as to the safe operation of boats. No boats of any kind shall enter the swimming area, which is plainly marked with floats.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.04 SWIMMING DOCK; BATH HOUSES.

(A) No fishing shall be allowed at any time by any person from the swimming dock. This dock is for the use of swimmers only. No person shall swim anyplace except at the beach area designated and marked by floats.

(B) No person shall in any manner damage the bath house or any part or portion thereof or any fixture therein. Nor shall any person damage any park property of any kind at any time.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.05 FISHING IN PARK.

Fishing from shore is allowed from the entrance of the park to the swimming area and also from the north line of the boating area. No fishing is allowed at any time in either the boat landing area or the swimming area, both of which are clearly marked.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.06 VEHICLE REGULATIONS.

(A) Speed limits in the park are posted and no person shall operate any motor vehicle over the speed so posted. No motor vehicle shall be driven in the park except on duly laid out roads or in the parking area or the boat landing area. No motor vehicle, including motorcycles, shall be driven up or down the banks from the lower level of the park to the picnic area at any time.

(B) One-way roads in the park are posted as such, and no person shall drive or operate a motor vehicle in a direction opposite to that shown on the signs.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.07 PICNIC AREA.

Fire places, stoves, water facilities, picnic tables and playground equipment have been provided for the convenience of the public. No person shall damage any of this equipment. All paper and other refuse, including cans, paper cups and other containers, shall be placed in the barrels provided for this purpose.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.08 FIRE PROHIBITED; EXCEPTION.

No fire shall be started at any place in the park at any time except on the fireplaces or in the stoves provided for this purpose.

(Ord. 134, passed 7-1-58) Penalty, see § 10.99

§ 92.09 GENERAL USE OF PARK.

It shall be unlawful for any person to bring any glass beverage container into the park at any time. No refuse shall be thrown about the park. Refuse barrels have been provided and all paper, cans, containers, and the like shall be placed in the barrels. No cans, paper or other objects shall be thrown into the lake.

(Ord. 134, passed 7-1-58; Am. Ord. 194, passed 6-13-83) Penalty, see § 10.99

§ 92.10 SNOWMOBILES PROHIBITED.

No person shall operate, drive, propel or tow or have an engine running on any snowmobile of any make, kind or description in any part of Lakeview Park at any time, except that snowmobiles shall be permitted to operate on the lower road and on that portion of Lakeview Park abutting Lake Elysian, between the road and the lake. No snowmobile shall at any time be operated on any of the upper roads or on the hills in Lakeview Park.

(Ord. 142, passed 1-7-69; Am. Ord. 151, passed 2-2-71) Penalty, see § 10.99

Cross-reference:

Snowmobile regulations, see Ch. 72

§ 92.11 HOURS OF OPERATION.

(A) Lakeview Park shall be closed to the public between the hours of 11:00 p.m. and 6:00 a.m.

(B) It shall be unlawful for any person to be in or remain in the park between the hours specified in division (A) of this section, and any person in or on park property between the prohibited hours shall be deemed guilty of a misdemeanor

(Ord. 119, passed 9-7-48) Penalty, see § 10.99

§ 92.12 DAMAGE TO PARK PROHIBITED.

No person shall in any way or manner damage or destroy any picnic table, fences, signs, buildings, playground equipment, or any other property belonging to and used in connection with Lakeview park.

(Ord. 120, passed 9-7-48) Penalty, see § 10.99

CHAPTER 93: STREETS AND SIDEWALKS

Section

Right-of-Way Construction Regulations

- 93.01 Election to manage the public right-of-way
- 93.02 Definitions and adoption of rules by reference
- 93.03 Permit requirement
- 93.04 Permit applications
- 93.05 Issuance of permit; conditions
- 93.06 Permit fees
- 93.07 Right-of-way patching and restoration
- 93.08 Supplementary applications
- 93.09 Denial of permit
- 93.10 Installation requirements
- 93.11 Inspection
- 93.12 Work done without a permit
- 93.13 Supplementary notification
- 93.14 Revocation of permits
- 93.15 Mapping data; information required
- 93.16 Location of facilities
- 93.17 Damage to other facilities
- 93.18 Right-of-way vacation
- 93.19 Indemnification and liability
- 93.20 Abandoned facilities; removal of abandoned facilities
- 93.21 Appeal
- 93.22 Reservation of regulatory and police powers

Numbering of Buildings

- 93.35 Numbering of buildings

RIGHT-OF-WAY CONSTRUCTION REGULATIONS

§ 93.01 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

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

§ 93.02 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

Minn. Rules Ch. 7819, as it may be amended from time to time is hereby adopted by reference and are incorporated into this code as if set out in full. The definitions included in

Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time are the definitions of the terms used in the following provisions of this subchapter.

§ 93.03 PERMIT REQUIREMENT.

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

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

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

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

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

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

Penalty, see § 10.99

§ 93.04 PERMIT APPLICATIONS.

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

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

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

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all

times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

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

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

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

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

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

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

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

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

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

(B) Payment of money due the city for:

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

(2) Prior obstructions or excavations;

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

(4) Franchise fees or other charges, if applicable.

§ 93.05 ISSUANCE OF PERMIT; CONDITIONS.

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

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

§ 93.06 PERMIT FEES.

Permit fees shall be in an amount established by ordinance from time to time.

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

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

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

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

(D) *Non-refundable.* Permit fees that were paid for a permit that the Director has revoked for a breach as stated in § 93.21 are not refundable.

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

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

Penalty, see § 10.99

§ 93.07 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 93.15.

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

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

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

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

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. The work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 93.15.

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

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

§ 93.08 SUPPLEMENTARY APPLICATIONS.

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

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

§ 93.09 DENIAL OF PERMIT.

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

§ 93.10 INSTALLATION REQUIREMENTS.

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

§ 93.11 INSPECTION.

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

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

(C) *Authority of Director.*

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

(2) The Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 93.21.

§ 93.12 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

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

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

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

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

§ 93.13 SUPPLEMENTARY NOTIFICATION.

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

§ 93.14 REVOCATION OF PERMITS.

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

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.18.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that

violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

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

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

§ 93.15 MAPPING DATA; INFORMATION REQUIRED.

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

§ 93.16 LOCATION OF FACILITIES.

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

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

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

§ 93.17 DAMAGE TO OTHER FACILITIES.

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

facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

§ 93.18 RIGHT-OF-WAY VACATION.

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

§ 93.19 INDEMNIFICATION AND LIABILITY.

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

§ 93.20 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.

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

§ 93.21 APPEAL.

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

§ 93.22 RESERVATION OF REGULATORY AND POLICE POWERS.

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

NUMBERING OF BUILDINGS

§ 93.35 NUMBERING OF BUILDINGS.

(A) The current address of all homes and other buildings occupied for living purposes and business buildings shall be displayed on the exterior of the home or business facing the street adjacent to the home or business building in compliance with this section.

(B) Each number of the address attached to the home or business shall be three inches or greater in size. The numbers shall be of a color that contrasts to the color of the building to which it is attached. The numbers of the address shall be in arabic numbers only and roman numerals and numbers in writing shall be prohibited.

(C) All numbers attached to a home or business place shall display the address of the home or business place and shall be located in a position near the front door of the building so it may be seen from the street and read clearly at night with a spotlight or a porch light attached to the building.

(D) All persons violating any of the provisions of this section shall be guilty of a petty misdemeanor as defined by state law.

CHAPTER 94: DISCHARGE OF FIREARMS

Section

- 94.01 Definition
- 94.02 Discharge of firearms
- 94.03 Discharge of non-firearms
- 94.04 Use of bow and arrow
- 94.05 Fireworks and explosives
- 94.06 Acts of minors
- 94.99 Penalty

§ 94.01 DEFINITIONS.

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

FIREARMS. Any gun from which shot or a projectile is discharged by means of an explosive, gas or compressed air including but not limited to pistols, rifles, shotguns, air rifles or pellet guns.

NON-FIREARM. Any device from which a projectile may be sent by means other than explosive gas or compressed air for a distance exceeding 50 feet including but not limited to BB guns, sling shots or paint ball guns.

(Res. 2002-23, passed 6-10-02)

§ 94.02 DISCHARGE OF FIREARMS.

It is unlawful for any person to fire or discharge any firearm within the municipal limits of the city.

(Res. 2002-23, passed 6-10-02) Penalty, see 94.99

§ 94.03 DISCHARGE OF NON-FIREARMS.

It is unlawful for any person to discharge a non-firearm within the municipal limits of the city unless such person is located upon property constituting his residence or land appurtenant to such residence and the projectile does not leave the boundaries of such property.

(Res. 2002-23, passed 6-10-02) Penalty, see 94.99

§ 94.04 USE OF BOW AND ARROW.

It is unlawful for any person to shoot a bow and arrow within the municipal limits of the city except in a physical education program in a school supervised by a member of its faculty or in a community- wide supervised class or event.

(Res. 2002-23, passed 6-10-02) Penalty, see 94.99

§ 94.05 FIREWORKS AND EXPLOSIVES.

(A) The term ***FIREWORKS*** means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and includes blank cartridges, toy cannons and toy canes in which explosives are used; the type of balloons which require fire underneath to propel them; firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in division (C) or other fireworks of like construction; and any fireworks containing any explosive or inflammable compound or any tablets or other device containing any explosive substance and commonly used as fireworks.

(B) The term ***FIREWORKS*** shall not include toy pistols, toy guns in which paper caps containing 25/100 grains or less of explosive compound are used or toy pistol caps which contain less than 20/100 grains of explosive mixture.

(C) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are non-explosive and non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes; snakes and glow worms; smoke devices or trick noisemakers which include paper streamers; or party poppers, snappers and drop pops, each consisting of not more than 25/100 grains of explosive mixture. The use of items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.

(Res. 2002-23, passed 6-10-02) Penalty, see 94.99

§ 94.06 ACTS OF MINORS.

It is unlawful for a person in a position of authority or control over a minor child to permit such child to violate this chapter.

(Res. 2002-23, passed 6-10-02) Penalty, see 94.99

§ 94.99 PENALTY.

It shall be a misdemeanor to violate any portion of this chapter. See § 10.99

(Res. 2002-23, passed 6-10-02)