

TITLE VI

PUBLIC CONDUCT OFFENSES

CHAPTERS:

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CHAPTER 6-01

NUISANCES

SECTIONS:

- 6-0101. Refuse, Junk and Nuisance Regulations, Prohibitions and Remedies.
- 6-0102. Junk Cars, Furniture, Household Furnishings and Appliances Stored on Public or Private Property.
- 6-0103. Public Nuisance.

SEC. 6-0101. REFUSE, JUNK AND NUISANCE REGULATIONS, PROHIBITIONS AND REMEDIES.

Subd. 1. Findings. The Council finds that unregulated deposit and storage of junk and unregulated storage and non-mandatory collection of refuse are not only potential, but immediate, habitat for rodents, the spread of noxious weeds and other hazardous conditions of decay which are unsanitary, unhealthy, and an ecological blight. The Council further finds that such hazardous conditions must not only be halted in the future but also corrected for the present. The Council recognizes that the regulations, prohibitions and remedies provided for herein are bold steps but absolutely essential to the health of the residents and ecology of the community.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Refuse" means and includes all organic and inorganic (1) material resulting from the manufacture, preparation or serving of food or food products; (2) spoiled, decayed or waste food from any source; (3) bottles, cans, glassware, paper or paper products, crockery, ashes, rags and discarded clothing; (4) tree, lawn or bush clippings and weeds; (5) furniture, household furnishings or appliances, or parts or components thereof; or, (6) human or household waste of all kinds not included in any other portion of this definition.

B. "Junk" means and includes all (1) unregistered, unlicensed or inoperable (including, but not limited to, the lack of component parts) motor vehicles, motorized vehicles or equipment, bicycles, boats, outboard motors, or trailers, or parts or components thereof; (2) inoperable (including, but not limited to, the lack of component parts) agricultural implements or parts or components thereof, machines and mechanical equipment of all kinds or parts or components thereof, and by-products or waste from manufacturing operations of all kinds; (3) used lumber or waste resulting from building construction, renovation, remodeling, or demolition; or, (4) felled trees and tree branches that are not immediately processed into lumber, wood for fuel, fence components, or other such ultimate use.

C. "Nuisance" means and includes (1) maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; (2) interfering with, obstructing or rendering dangerous for passage, any street, public right-of-way or waters used by the public; or, (3) any other act or omission declared by law to be a public nuisance.

D. "Residential Premises" means any building consisting of any number of dwelling units, each with individual kitchen facilities, and, in the case of multiple dwelling units in such building, each unit shall be considered "residential premises".

E. "Commercial Premises" shall consist of two types: (1) any premises where a commercial, industrial or governmental enterprise of any kind is carried on where food is prepared or served from a central kitchen, including restaurants, clubs, churches, schools and health care facilities; or, (2) any premises where a commercial, industrial or governmental enterprise of any kind is carried on where food is not prepared or served.

Subd. 3. Refuse Storage.

A. It is unlawful for any person to store refuse on residential or commercial premises, type (2), for a continuous period in excess of seven (7) days.

B. It is unlawful for any person to store refuse on commercial premises, type (1) for a continuous period in excess of ninety-six (96) hours.

C. It is unlawful to store organic refuse unless it is drained, wrapped (in paper or plastic) and placed in an impervious and leak-proof container with a tight-fitting cover.

Subd. 4. Mandatory Collection of Refuse.

A. It is unlawful for each occupant of residential or commercial (of either type) premises to fail or refuse to subscribe for, receive and pay for (at going rates for the class of service) the refuse collection services of a garbage and refuse hauler licensed by the City.

B. It is unlawful for any person to obstruct a licensed garbage and refuse hauler in the performance of its duties.

C. If any person fails or refuses to comply with Subparagraph A of this Subdivision, the City may, upon fifteen (15) days' notice in writing mailed to the owner of such premises at the address appearing on the tax rolls of the County, and as an additional and not alternate to any other remedy provided herein, subscribe and pay for the services of such hauler and certify all costs to the County Auditor to be spread upon the tax rolls as a special assessment on the subject premises.

Subd. 5. Junk Storage.

A. It is unlawful to park or store junk on any premises unless it is housed within a completely enclosed building or on duly licensed junk dealer premises.

B. If any person fails or refuses to comply with Subparagraph A of this Subdivision, the City may, upon fifteen (15) days' notice in writing mailed to the owner of such premises at the address appearing on the tax rolls, and as an additional and not alternate to any other remedy provided herein, physically remove the junk, dispose of it as valueless, and certify all costs thereof to the County Auditor to be spread upon the tax rolls as a special assessment on the subject property.

Subd. 6. Nuisance. It is unlawful for any person to permit or maintain a nuisance upon any premises.

Subd. 7. Additional Unlawful Acts.

A. It is unlawful for any person to deposit offal or the body of a dead animal in any place other than a sanitary landfill or other facilities approved by statute or the City Code.

B. It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point of danger of fire.

SEC. 6-0102. JUNK CARS, FURNITURE, HOUSEHOLD FURNISHINGS AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY. It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furnishings or appliances, or parts or components thereof, on any property, public or private, unless housed within a lawfully erected building. Any violation of this Section is declared to be a nuisance and upon seven days written notice to the owner, as shown by the records in the office of the County Auditor, of private premises on which such material is found, the City may remove the same and certify the cost of such removal as any other special assessment.

SEC. 6-0103. PUBLIC NUISANCE.

Subd. 1. Unlawful Acts. It is unlawful for any person to maintain a public nuisance by his/her act or failure to perform a legal duty, and for purposes of this Section, a public nuisance shall be defined as any of the following: (1) maintaining or permitting a condition which unreasonably annoys, injures or endangers the public peace, safety, health, morals, decency, comfort or repose of any considerable number of members of the public; or, (2) allowing noxious weeds, including all weeds defined by the State Commissioner of Agriculture to be injurious to public health, roads, crops, livestock, and other property including obviously neglected lawns and/or yards; or, (3) interfering with, obstructing or rendering dangerous for passage, any street, public right-of-way, or waters used by the public; or, (3) any other act or omission declared by law to be a public nuisance.

Subd. 2. Permitting a Public Nuisance. It is unlawful for any person to permit real property under his/her control to be used to maintain a public nuisance, or let the same to another knowing it is to be so used.

Subd. 3. Notice to Abate. Authorized City personnel shall give notice to any person maintaining a nuisance to abate such practice forthwith or within a designated time, and if the owner or occupant of the premises on which such practice shall be situated shall neglect or refuse to remove or correct the same for more than 24 hours after such notice is given or within the time specified in the notice, the owner shall, upon conviction, be penalized in accordance with this Section. There will be ONLY one notice given within a calendar year for the same nuisance violation. If the nuisance occurs on the same property within that calendar year of the first notice, abatement may proceed without notice and the cost of such abatements will be assessed to the property.

Subd. 4. Cost of Abatement. Any person convicted of maintaining or permitting a public nuisance who fails to abate such nuisance may be charged for abatement costs as incurred by the City. Where abatement is undertaken by City personnel, costs shall be charged at \$50.00 per hour of labor but not less than \$50.00, in addition an administrative fee of \$25.00 per occurrence. Abatement includes, but is not limited to, clearing of yards and mowing of lawns.

CHAPTER 6-02

ANIMALS

SECTIONS:

- 6-0201. Dog and Cat Regulation and Licensing.
- 6-0202. Wild Animal Regulation.
- 6-0203. Animals and Fowl - Keeping, Transporting, Treatment, Housing.
- 6-0204. Animal Waste.

SEC. 6-0201. DOG AND CAT REGULATION AND LICENSING.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "At Large" means off the premises of the owner and is neither controlled by a leash, command of owner of suitable age, nor confined in a vehicle or cage.

B. "Cat" means any domesticated feline animals, male or female, whole or neutered.

C. "Dog" means any domesticated dog, male or female, whole or neutered. Any wolf or wolf hybrid shall be deemed as an animal wild by nature and shall not be deemed as a "dog" under this Section.

D. "Potentially Dangerous Dog" means any dog that:

1. When unprovoked, inflicts bites on a human or domestic animal on public or private property;

2. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

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

E. "Dangerous Dog" means any dog that has:

1. Without provocation, inflicted substantial bodily harm on a human being on public or private property.

2. Killed a domestic animal without provocation while off the owner's property.

3. When unprovoked, bitten a person or domestic animal on public or private property on two or more occasions.

4. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack on two or more occasions.

F. **“Owner”** means any person, firm, corporation, organization, or department possessing, harboring, keeping, having interest in, or having care, custody, or control of a dog or cat.

G. **“Substantial Bodily Harm”** means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Subd 2. Running at Large Prohibited. It is unlawful for the owner of any dog or cat to permit such animal to run at large. The police officers or animal control officer may seize, impound or restrain any dog or cat found running at large. Subdivisions 4 and 5 shall apply to any dog or cat impounded under this Section.

Subd.3. Dog and Cat License Required. It is unlawful for the owner of any dog or cat, six (6) months of age or more, to keep said dog or cat within the City unless the owner first obtains a license therefor from the City.

A. **Application.** Application for a dog or cat license shall be upon a form supplied by the City and accompanied by a certificate of a veterinarian, duly licensed to practice veterinary medicine in the State of Minnesota, which certificate shall state that the dog or cat for which application for a license is made, has been inoculated against rabies for at least the period for which the license is applied.

B. **Period and Fees.** All dog and cat licenses shall expire on January 1st of each license year and shall become delinquent on January 1st of the following year or within six months after the dog's birth. All fees for the licensing and impounding of dogs and cats, including penalties for late application, shall be fixed, determined and amended by the Council by consolidated ordinance, and uniformly enforced. A copy of the ordinance setting forth currently effective fees shall be kept on file in the office of the City Administrator and open to inspection during regular business hours.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

C. **Tag Required.** Upon payment of the license fee, the City Administrator shall deliver one appropriate tag to the owner of said licensed dog or cat. It is unlawful for the owner of any dog to fail to have the tag firmly affixed to a collar which shall at all times be kept on the dog for which the license is issued. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing payment of the license fee for the current year. Tags shall be non-transferable, and no refund shall be made on any license fee because of leaving the City or death of the dog before expiration of the license.

D. **Impoundment.** The police officers or animal control officer may seize, impound or restrain any unlicensed dog or cat, or any dog or cat that is without a tag attached to a collar found in the City. The fact that the dog or cat is without a tag attached to a collar shall be presumptive evidence that the dog or cat is unlicensed. To enforce this Section, said officers are empowered and instructed to enter upon any public or private property on which

they have reasonable cause to believe there is a dog or cat that is not licensed or tagged as required under this Section.

Subd. 4. Disposition of Impounded Dogs and Cats.

A. Notice of Impounding. The officer who seized, impounded or restrained any dog or cat pursuant to Subdivisions 2 and 3 of this Section shall without delay, notify the owner, personally or through the United States mail, if such owner be known to the officer or can be ascertained with reasonable effort; but if the owner be unknown or cannot be ascertained, then the officer shall make available to the Police Department, City Hall and impounding kennel for public inspection the following information: (1) a description of the dog, (2) location of impoundment, and (3) the condition for its release.

B. Redemption. All dogs and cats seized, impounded or restrained pursuant to this Section must be held by the pound master for redemption by the owner for at least five (5) regular business days. If, after the five regular business days an owner does not claim the dog, then any right of redemption shall be deemed to have been waived and the dog or cat shall be disposed of as provided in Subparagraph C of this Subdivision. Any impounded dog or cat shall be released to their owners, as follows:

1. If such dog or cat is owned by a resident of the City, after payment of the impounding fees, and in addition, in the case the dog or cat is not currently licensed, purchase of a license.

2. If such dog or cat is owned by a person not a resident of the City, such owner must provide proof of current rabies immunization of any such dog or cat within 48 hours of release, excluding Saturdays, Sundays and legal holidays, and payment of the impounding fee for the period for which the dog or cat was impounded.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

C. Disposition of Unclaimed Dogs and Cats. Any dog or cat which is not claimed within the five-day period, as defined herein, must be made available to any licensed institution which has requested the animal as required by Minnesota Statutes, Section 35.71. If a tag affixed to the animal, or by a statement by the animal's owner after the animal's seizure specifies that the animal may not be used for research, the animal must not be made available to any such institution and may, in the discretion of the pound, be sold for less than the amount of the required licensing fee, if applicable, to anyone desiring to purchase the animal, or be destroyed in a proper and humane manner after the expiration of the five-day period.

Subd. 5. Animal Pound Records. Upon the impoundment of any dog or cat pursuant to this Section, an accurate record of the time of such impoundment shall be kept on each animal. Impoundment records shall be preserved for a minimum of six months and shall show (1) the description of the animal by species, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the animal was seized; (3) the date of seizure; (4) the name and address of the person from whom any animal was received; and, (5) the name and address of the person to whom any animal three months of age or over was transferred.

Subd. 6. Public Nuisance.

A. Unlawful Acts. It is unlawful for the owner of any dog or cat to:

1. Permit such animal to habitually bark, cry, whimper, howl, whine, or emit any other loud or unusual noises;

2. Permit such animal to damage or defecate in or upon public property or the property of another;

3. Interfere with any police officer, or other City employee, in the performance of his/her duty to enforce this Subdivision.

B. Impoundment. The animal control officer or police officer may seize, impound or restrain any dog or cat which has been permitted to habitually bark, cry, whimper, howl, whine or emit any other loud or unusual noise for a period of two or more hours whenever the owner of such animal cannot be immediately located or has failed, upon order by the animal control officer or a police officer, to prevent such animal from habitually making such noise. Subdivisions 4 and 5 of this Section shall apply to any cat or dog impounded under this Subdivision.

Subd. 7. Dangerous Dogs.

A. City Registration Required. It is unlawful to own a dangerous dog in the City unless the dog is registered as provided in this Subdivision.

B. The City shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

1. A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property;

2. A surety bond issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable to the City in the sum of at least \$50,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

3. The owner has paid an annual fee of \$500.00, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this Section; and

4. The owner has had microchip identification implanted in the dangerous dog as required under Minnesota Statutes 347.515.

C. Dangerous Dog Designation Review. Beginning six months after a dog is declared a dangerous dog, an owner may request annually that the City review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the City finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

D. County Registration Required. It is unlawful to own or keep a dangerous dog within the City unless such dog is duly registered with the Clay County Auditor's Office.

E. Tag Required. It is unlawful for the owner of any dangerous dog, while on the owner's property, to not have the standardized, easily identifiable tag affixed to the dog's collar at all times, identifying the dog as dangerous. A police officer, animal control officer, warden, or other employee or agent of the City assisting a police officer or animal control officer, is hereby authorized to summarily destroy such animal.

F. Enclosure and Muzzling Required. It is unlawful for the owner of any dangerous dog, while on the owner's property, to have such dog outside a proper enclosure unless such a dog is muzzled, as to prevent the dog from biting any person or animal but not injurious to the dog, and restrained by a substantial chain or leash and under the physical restraint of a responsible person. For purposes of this provision, "proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and providing protection from the elements for the dog.

G. Destruction of Dangerous Dog. In the event that a dangerous dog appears to be an immediate danger to any person or property, a police officer, animal control officer, warden, or other employee of the City assisting a police officer, is hereby authorized to summarily destroy such animal.

H. Non-Application to Police Dogs. The provisions of this Subdivision shall not apply to any dangerous dog used by law enforcement officials for public work.

Subd. 8. Disposition of Certain Animals.

A. Generally. The Council is authorized to order the destruction or other disposition of the following: (1) any dog or cat that habitually destroys property or habitually trespasses in a damaging manner on property of persons other than the owner; (2) any dangerous dog; and, (3) any animal that habitually barks, cries, whimpers, howls, whines, or emits any other loud or unusual noises. In the event the Council waives its authority under this Subdivision, a sworn complaint of any person that any one of the foregoing facts exists may be brought before a District Court Judge in this County. Said Judge shall issue a summons directed to the owner or person having possession of said animal commanding such person to appear before said Judge to show cause why said animal should not be seized and killed or otherwise disposed of by the pound master, or any police officer or animal warden. Such summons shall be returnable not more than five (5) days from the date thereof and shall be served at least three (3) days before the time of appearance mentioned therein. Upon such hearing and finding of the facts true as complained of, the Judge may either order the animal killed or order the owner to remove it from the City or may order it confined to a designated place, or may order its sale or other disposition as herein provided for the impounded animal.

B. Notice and Hearing. The Council, after having been advised of the existence of such animal as defined in this Subdivision and having decided to retain its authority under this Section, shall proceed as follows:

1. The owner of the offending animal shall be notified in writing as to the reasons the animal is subjected to disposition under this Subdivision and where applicable, the dates, times and places of animals and persons bitten, attacked, injured or disfigured, or of other violations, and shall be given ten (10) days to request a hearing for

determination as to the disposition of the animal. If the owner does not request a hearing within ten (10) days of the notice, the Council shall make an appropriate order including destruction or other property disposition of the animal. The owner shall immediately make the animal available to the animal control officer for the ordered disposition.

2. If the owner requests a hearing for the determination as to the disposition of the animal, the hearing shall be held before the Council at a date not more than three (3) weeks after demand for the hearing. The records of the animal control officer shall be admissible for the consideration without further foundation. After considering all evidence, the Council shall make an appropriate order within thirty (30) days of hearing, including destruction or other proper disposition of the animal. The owner shall immediately make the animal available to the animal control officer for the ordered disposition.

3. The Council may apply to the District Court of Clay County for subpoenas for hearing under Item 2, above.

C. Concealing of Animals. It is unlawful for any person to harbor, hide or conceal an animal which has been ordered into custody for destruction or other proper disposition.

Subd. 9. Immobilization of Dogs or Cats. For the purpose of enforcement of this Section, any peace officer, animal control officer, or other person assisting a police officer or animal control officer, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing or seizing, impounding, or restraining any animal believed to be in violation of this Section.

Subd. 10. Rabies Control.

A. Inoculation. Any owner of a dog or cat over six months of age must have such dog or cat inoculated against rabies in accordance with this Subdivision and possess a certificate of a veterinarian duly licensed to practice medicine within the State of Minnesota, which certificate shall state that the dog or cat has a current inoculation against rabies. Any dog vaccinated with a modified live or trimmune killed rabies vaccine shall be revaccinated at no more than 24 month intervals; any dog vaccinated with any other killed rabies vaccine shall be revaccinated at no more than 12 month intervals. Any cat shall be revaccinated at no more than 12 month intervals for any and all types of vaccines used.

B. Animal Bites.

1. Persons Bitten.

(a) Whenever any dog or cat has bitten a person, the owner must: (1) provide a certificate of current rabies inoculation; and (2) immediately quarantine the dog or cat at the owner's home or other suitable place of confinement as directed by the responsible officer of the City for a period of ten (10) days after the occurrence.

(b) During the quarantine, the dog or cat shall be securely confined in a building, locked kennel or a yard which is enclosed by a fence not less than five (5) feet high and so constructed that the animal cannot escape or otherwise leave the enclosure, and which will not permit other animals or persons to enter, for the purpose of preventing the animal from biting or otherwise coming into contact with persons or other animals.

(c) If the dog or cat dies or shows signs of illness or if it escapes, the animal control officer or Police Department must be notified immediately. The confinement, testing and treatment costs, in addition to all other expenses incurred as the result of a dog or cat biting a person, shall be at the expense of the owner of the biting animal.

(d) In the event that a certificate of current rabies inoculation is not provided or upon a reasonable suspicion that the dog or cat may be rabid, the dog or cat shall be immediately seized and subjected to the necessary tests by a doctor of veterinary medicine for the purpose of determining if it is infected with rabies. Any animal, other than a dog or cat, which has bitten a person may be destroyed and taken to the Minnesota Department of Health, Division of Public Health Laboratories to be determined if the animal has been infected with rabies.

2. Dog or Cat Bitten.

(a) Whenever any rabid-bearing animal has bitten a dog or cat, the owner of the bitten dog or cat, having been so notified, either orally or in writing, must: (1) provide a certificate of current inoculation to the Police Department; (2) immediately revaccinate the dog or cat; and (3) immediately quarantine the dog or cat at the owner's home or other suitable place of confinement as directed by the responsible officer of the City for a period of 180 days. The dog or cat may be released from quarantine after forty (40) days if the following are satisfied:

(1) The dog or cat was vaccinated for rabies at least 21 days before exposure;

(2) The dog or cat was revaccinated for rabies immediately after exposure at which time the 40-day period shall begin; and

(3) A written report as required by State law is received by the Board of Animal Health.

(b) Any quarantine of a dog or cat under this Subdivision shall be in accordance with Item 1, (b) of this Subparagraph B.

(c) If the dog or cat dies or shows signs of illness or escapes, the animal control officer or Police Department must be notified immediately. The confinement, testing and treatment costs, in addition to all other expenses incurred as the result of a dog or cat bitten by another animal shall be at the expense of the owner of the dog or cat bitten.

(d) In the event that a certificate of current rabies inoculation is not provided, or the owner of the dog or cat bitten fails to comply with the provisions herein, or upon a reasonable suspicion that the dog or cat may be rabid, the dog or cat shall be immediately seized and subjected to the necessary tests by a doctor of veterinary medicine for the purpose of determining if it is infected with rabies and shall be quarantined as provided in Item 1, (b) of this Subparagraph B. Any animal, other than a dog or cat, which has bitten a dog or cat shall be destroyed and taken to the Minnesota Department of Health, Division of Public Health laboratories to be determined if the animal has been infected with rabies.

Subd. 11. Number of Animals Restricted. The number of licensed animals permitted shall not exceed four (4) per dwelling unit. Any existing dwelling which becomes

non-conforming on the effective date of this Section shall not have the number of permitted animals enlarged, but may continue with the existing animals until the death of the animals in excess of the permitted number.

SEC. 6-0202. WILD ANIMAL REGULATION.

Subd. 1. Purpose. This Section is adopted for the purpose of protecting the health, safety and welfare of the residents of the City.

Subd. 2. Definition. For the purposes of this Section, the term "wild animal" means and includes any animal, not of the traditional domesticated species, which is inherently dangerous and presents a potential risk to the public.

Subd. 3. Running at Large Prohibited. It is unlawful for the owner of any wild animal to permit such animal to run at large. Any animal shall be deemed to be running at large with the permission of the owner unless it is effectively confined within a motor vehicle, building, or enclosure.

Subd. 4. Permit Required. It is unlawful for any person to keep, shelter or harbor any wild animal without a permit therefor from the City.

Subd. 5. Permit Term and Fees. All permits shall be issued for a term of two (2) years and the fee for such permits shall be fixed and determined by the Council, adopted by consolidated ordinance and uniformly enforced. Such fee may from time to time be amended by the Council.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 6. Conditions of Permit. No permit for the keeping of wild animals shall be issued until the applicant has met the following criteria for the keeping and housing of wild animals:

A. A plan is approved by the Council which establishes the nature and size of the cage or enclosure to house the animal considering the animal's size, weight, strength and relative danger to the public; specifying all protective devices to be maintained to restrain the animal and discourage tampering by humans and other animals; providing for suitable exercise facilities; and an emergency response plan to be on file with the City.

B. Erection and maintenance of suitable fencing for the protection of adjoining property owners and the general public.

C. Providing suitable sanitation controls so as not to create a public or private nuisance.

D. Proof of insurance for medical expense and liability.

Subd. 7. Inspection. Prior to the issuance of the permit, the City shall require an inspection be made to determine that the facilities are suitable for the protection of the health, safety and welfare of the public. Such inspection shall be made by a person approved by the City and the cost of such inspection shall be borne by the applicant.

Subd. 8. Suspension or Revocation of Permit. The Council may, for any violation or other reasonable cause: (1) refuse to grant any renewal application; (2) suspend for a period of sixty (60) days; or (3) revoke any permit issued under this Section. Such action shall be made only upon a finding that the permittee has failed to comply with the provisions of this Section. The Council shall take such immediate action as it deems necessary for the public protection to remedy any potentially dangerous situation. The owner of such animal shall be responsible for any expense incurred as the result of such action. Before revocation of any permit, the Council shall give notice to the permittee and grant such permittee opportunity to be heard. The permittee shall have thirty (30) days following a revocation hearing to correct any violations of this Section found to be the basis for revocation, during which time period the revocation shall be suspended.

SEC. 6-0203. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.

Subd. 1. Definitions. As used in this Section, the following definitions shall apply:

A. "Farm Animals" - Cattle, horses, mules, donkeys sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, rabbits guinea hens and honey bees.

B. "Animals" - Includes farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, gerbils, hamsters and caged household birds.

Subd. 2. Keeping. It is unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the City zoned for agricultural purposes, or, (2) animals kept as part of a show licensed under the City Code, or, (3) animals used in a parade for which a permit has been issued, or, (4) animals kept in a laboratory for scientific or experimental purposes, or, (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

Subd. 3. Animals in Transit. It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance, or, (2) farm animals being transported in a portion of the City zoned for agricultural purposes, or, (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 4. Treatment. It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.

Subd. 5. Housing. It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

Subd. 6. Trespasses. It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific permission therefor from the owner.

SEC. 6-0204. ANIMAL WASTE.

Subd. 1. Definitions. For the purpose of this Section:

A. "Owner" means any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.

B. "Animal" means a dog, cat or other animal.

Subd. 2. Unlawful Acts. It is unlawful for any owner to:

A. Suffer or permit an animal to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.

B. Suffer or permit an animal to be upon public property, or the private property of another, unless such animal is in the custody of a person of suitable age and discretion having in his/her possession equipment and supplies for excrement removal.

C. Permit animal excrement to accumulate for a period in excess of seven (7) days on premises occupied by him/her without removal and sanitary disposal.

Subd. 3. Exceptions. The provisions of Subdivision 2, Subparagraphs A and B, do not apply to a guide dog accompanying a blind person, a service dog accompanying a disabled person, or a dog while engaged in police or rescue activity.

CHAPTER 6-03

TREES

SECTIONS:

6-0301. Shade Tree Protection and Disease Control.

SEC. 6-0301. SHADE TREE PROTECTION AND DISEASE CONTROL.

Subd. 1. Diseased or Dangerous Conditions of Trees. Upon the discovery of any destructive or communicable disease or other pestilence to spread disease or insect infestations, the City Forester shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated. The notice shall require the property owner to eradicate, remove or otherwise control the condition within a reasonable time specified in the notice.

Subd. 2. Unlawful Conditions of Private Trees (Nuisance). It is unlawful for any person to allow the following conditions to exist on their property:

A. Any tree, shrub, or wood therefrom, having a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees, shrubs or plants in the City or which is capable of causing an epidemic spread of a communicable disease or insect infestation.

B. The roots of any tree or shrub, which cause the surface of the public street, curb or sidewalk to be upheaved or otherwise disturbed.

C. Any tree, shrub, or portion thereof which, by reason of location or conditions, constitutes an imminent danger to the health, safety, or well-being of the general public.

Subd. 3. Responsibility for Public Nuisance Fixed. Where a nuisance exists upon property, the owner, occupant or agent, and all other persons having control of the property on which the nuisance exists, shall be deemed equally liable for the nuisance.

Subd. 4. Nuisance Abatement. The City shall serve notice upon the owner, occupant or agent of any lot, building or premises in or upon which a nuisance may be found, or upon the person who may be the cause of the nuisance, requiring the person to abate the nuisance as provided herein. Failure to serve notice shall not relieve the person from the obligation to abate the nuisance.

Subd. 5. Expense of Abatement. In case of neglect or refusal of any person to abate any nuisance, the City may abate the nuisance. The expense of the abatement shall be collected from the person so offending. The City may collect the expense of the abatement in the same manner as a special assessment against the property.

Subd. 6. Right of Inspection. The City Forester or his/her designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

Subd. 7. Transporting Wood Prohibited. It is unlawful for any person to transport elm wood into or through the City unless the same is debarked, or in the months of April, May or June, to transport oak wood without first securing a permit from the City Forester. The Forester shall grant a permit only when the purpose of this Section will be served thereby, and only when no reasonable alternative is available.

Subd. 8. Storage of Elm Wood Prohibited. It is unlawful for any person to keep or store elm wood in the City, unless the bark has been removed, between May 15th and September 15th of each year.

Subd. 9. Interference With Actions of City Forester or Designee. It is unlawful for any person to prevent, delay, or interfere with the City Forester or his/her designee, while engaging in and about the inspecting, planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds as authorized in this Section.

CHAPTER 6-04

OPEN BURNING

SECTIONS:

6-0401. Open Burning and Air Pollution Control

SEC. 6-0401. OPEN BURNING AND AIR POLLUTION CONTROL.

Subd. 1. Minnesota Statutes Adopted. The provisions of Minnesota Statutes, Chapter 88 are hereby adopted by reference as though set forth verbatim herein. It is unlawful to violate a provision of this Section or of Minnesota Statutes, Chapter 88, hereby adopted by reference.

Subd. 2. Fire Warden. The Council shall by resolution designate a Fire Warden.

Subd. 3. Violation. It is unlawful for any person to burn or permit the burning of any grass, weeds, leaves, rubbish or other substance upon premises owned or occupied by the person, except as otherwise provided by the City Code.

Subd. 4. Exceptions. The following open burning shall be excepted from the regulations of this Section.

A. Fires in barbecue grills or other authorized containers used solely for the preparation of food. In any structure containing three or more dwelling units, it is unlawful for any person to kindle, maintain or cause to be kindled or maintained any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of said structure, or to store or use any fuel, barbecue, torch or other similar heating or lighting chemicals or devices in the locations designated above. These prohibitions do not apply to electric or gas-fired barbecue grills which are permanently mounted, wired or plumbed to the building's gas or electrical system and maintain a minimum clearance of 18 inches on all sides (unless listed for lesser clearances by the manufacturer) when approved by the Fire Warden.

B. Fires set for the instruction and training of public and industrial fire fighting personnel when weather conditions are such that resultant smoke will be carried away from the neighboring residences or other affected property owners or public roadways, and that such burning will not constitute a fire, health or traffic hazard, and a special permit has been issued by the Fire Warden.

C. Fires set for the elimination of hazards which cannot be abated by any other practical means and have been issued a special permit by the Fire Warden.

D. Recreational Fires defined as the burning of materials other than rubbish where fuel being burned is not contained in an incinerator, outdoor fireplace or barbecue pit and with a total fuel area of 3 feet or less in diameter and 2 feet in height. Recreational fires are permitted under the following conditions: a 50 foot clearance from any structure or combustible material is maintained, buckets, shovels or garden hoses are readily available, and a

special permit is issued by the Fire Warden or duly authorized agent. It is unlawful to allow campfires except in pits conforming to the specifics above located in designated camp grounds.

Subd. 5. Special Permits. Special permits shall be issued by the Fire Warden based upon the following:

- A. Written application and payment of a fee;
- B. Evidence of need;
- C. Evidence of adequate precaution for public protection and safety;
- D. Specification of location;
- E. Specification of materials to be consumed;
- F. Limitation to day(s) with wind levels below 10 mph;
- G. Written permission of the owner, lessee, or agent of the owner or lessee of the land;
- H. Agreement that the permittee shall keep the permit on his/her person at all times and shall produce the permit for inspection when requested to do so by a forest officer, Fire Warden, conservation officer, or other peace officer;
- I. The permittee shall remain with the fire at all times and before leaving the site completely extinguish the fire.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 6. Revocation of Special Permits. The Fire Warden shall revoke permits issued under this Section upon finding that:

- A. The permit is being used by any person other than the person to whom it was issued; or
- B. The conditions or limitations set forth in said permit have been violated; or
- C. Violations set forth in any written notice served upon a permittee by the Fire Warden have not been corrected within the time required by the notice; or
- D. The permit is being used for any premises or location other than that for which it was issued.

Subd. 7. Reporting of Fires. It is unlawful for the occupant of any property upon which any unauthorized fire is burning, whether the fire was started by the occupant or otherwise, to fail to promptly report the fire to the nearest forestry office, fire department, or other proper authority. The occupant of the premises shall be deemed prima facie guilty of negligence if the unreported fire spreads from the property or causes damage, loss, or injury to another person, that person's property, or the State.

CHAPTER 6-05

OFFENSES AGAINST PROPERTY

SECTIONS:

6-0501.	Obstructions on Public Property.
6-0502	Hazardous Conditions.
6-0503.	Unlawful Trespass.
6-0504.	Dangerous Trespasses and Other Acts.
6-0505.	Disorderly Conduct.
6-0506.	Disorderly Conduct - Trespass.
6-0507.	Disorderly Conduct - Noise Control Regulations.

SEC. 6-0501. OBSTRUCTIONS ON PUBLIC PROPERTY.

Subd. 1. Obstructions. It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without payment of a fee and obtaining a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 2. Fires. It is unlawful for any person to build or maintain a fire upon public property.

Subd. 3. Dumping on Public Property. It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

Subd. 4. Signs and Other Structures. It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without payment of a fee and obtaining a written permit from the Council.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 5. Snow or Ice on Public Property. It is unlawful for any person not acting under a contract with the City to dump snow or ice on public property.

Subd. 6. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

Subd. 7. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it,

considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

SEC. 6-0502. HAZARDOUS CONDITIONS.

Subd. 1. Preamble.

A. Private Property. The Council finds that accumulation on private property of unlicensed, unregistered or inoperable motor vehicles, household furniture, furnishings or appliances, or parts or components thereof, or metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, can facilitate the growth or spread of noxious weeds, the nesting and breeding of rodents, insects, and harmful bacteria, and be a threat of fire. The Council also finds that unless such accumulation is stored in a lawfully operated junk yard, housed within a lawfully erected building, or in a container permitted, and the contents disposed of, under provisions of the City Code, it is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the City. The Council finds that if such unauthorized, unwholesome and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this Section is adopted to protect the residents of the City and their property and, in addition, to protect the rights of persons who may be found in violation of its provisions. "Accumulation" as that term is used in this Subparagraph A, means prohibited items in any number or amount.

B. Business Premises. The Council finds that accumulation upon premises to which the public has access or may be exposed of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating, or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors, can facilitate the nesting and breeding of rodents, insects, and harmful bacteria and is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the City. The Council finds that if such unauthorized, unwholesome and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this Section is adopted to protect the residents of the City and their property and, in addition, to protect the rights of persons who may be harmed in violation of its provisions. "Accumulation" as that term is used in this Subparagraph B, means prohibited items or conditions in any number or amount.

Subd. 2. Unlawful Acts and Enforcement.

A. It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furniture, furnishings or appliances, or parts or components thereof, or scrap metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, on private property, unless such accumulation is stored within a lawfully operated junk yard, housed within a lawfully erected building, or in a container permitted, and the contents disposed of, under other provisions of the City Code.

B. It is unlawful to permit, on premises to which the public has access or may be exposed, any accumulation of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors.

C. As to any provision of this Section which constitutes an unlawful act, and in addition to all of the civil proceedings described in this Section, each day that a violation

continues, or is permitted to continue, shall constitute a separate offense in prosecution of such unlawful act.

Subd. 3. Investigation and Notice of Hearing. Upon receipt of any complaint of violation of Subdivision 2 of this Section, or on their own initiative, but at least annually during the month of May, the Council shall investigate the premises and if it is found that there is a hazardous condition and a nuisance on any premises in violation of this Section, the same shall be reported to the City Administrator who shall prepare a Notice of Hearing on Order to Abate Nuisance addressed to owners, tenants, mortgagees and other lien holders, all of whose interests are known to the City Administrator or appear of record, and bearing the legal description of the premises on which the alleged violation appears. The Notice shall state the date, time and place of hearing and describe the violation in general terms.

Subd. 4. Service of Notice. The Notice shall be served at least twenty days before the date of hearing in the following manner: (1) if the person to whom it is addressed resides in the City, or can readily be found therein, it shall be served personally on the addressee or left at his/her residence with a person of suitable age and discretion; (2) addressees not served personally shall be served by certified mail at their addresses appearing in records (selected by the City Administrator) of Clay County; and, (3) by publication of the Notice once in the official newspaper at least ten days prior to the date of hearing. Inadvertent failure to serve any addressee personally or by certified mail shall not invalidate the proceedings, but publication shall then suffice.

Subd. 5. Hearing, Findings and Decision.

A. The hearing shall be held before the Council at a regular or special meeting and conducted in the same manner as an administrative appeal. All persons desiring to be heard shall be afforded an opportunity to present evidence.

B. At any time after the hearing is closed, but at least at its next regular meeting, the Council shall decide whether or not the item or items constitute a nuisance in violation of this Section and direct the drawing and serving of Findings of Fact and Decision by certified mail on all addressees. If the Council finds that there is a violation, the decision shall include an Order to Abate Nuisance and specify the date by which abatement shall be completed.

C. Estimated value, if any, of all offensive items described in Subdivision 2, Subparagraph A, shall be included in the evidence and in the Findings. "Value" for the purpose of this Section means the amount of money, in cash, which can be obtained in a negotiated sale on a known and ready market in the City.

Subd. 6. City to Abate. If abatement of the items described in Subdivision 2, Subparagraph A, is not completed by the date stated in the Order to Abate Nuisance, the City may enter upon the premises, remove the offending item or items, and clean up the nuisance.

Subd. 7. City Disposal. If the City abates the nuisance it shall dispose of the items as follows:

A. Any item or items of value shall be sold locally in a negotiated sale.

B. Items of no value shall be disposed of in a landfill or other site acceptable to governmental regulatory authority.

Subd. 8. Allocation of Proceeds and Assessment. If the City abates the nuisance all costs thereof, including, but not limited to, cost of sale, if any, shall be aggregated, sale proceeds deducted, and the remainder certified as a special assessment.

Subd. 9. Failure to Abate Nuisance on Business Premises. If the hazardous condition and nuisance described in Subdivision 2, Subparagraph B of this Section is not abated within the time limited, all present licenses issued by the City to carry on the business on such premises shall be revoked, and no future license shall be issued therefor until full abatement has been completed.

SEC. 6-0503. UNLAWFUL TRESPASS. It is unlawful for any person to be upon the property or business premises of another which has been enclosed by a fence without permission of the property or business owner where "No Trespassing" signs have been prominently posted.

SEC. 6-0504. DANGEROUS TRESPASSES AND OTHER ACTS. It is unlawful for any person to: (1) smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted; or, (2) interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire; or, (3) show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track, or navigable water; or, (4) place an obstruction upon a railroad track; or, (5) expose another or his/her property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce; or, (6) trespass or permit animals under his/her control to trespass upon a railroad track; or, (7) permit domestic animals or fowls under his/her control to go upon the lands of another within the City; or, (8) interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land; or, (9) trespass upon the premises of another, and without claim of right refuse to depart therefrom on demand of the lawful possessor; or, (10) occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation; or, (11) enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or, (12) without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

SEC. 6-0505. DISORDERLY CONDUCT. It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following: (1) engage in brawling or fighting; or, (2) disturb an assembly or meeting, not unlawful in its character; or, (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or, (4) willfully and lewdly expose his/her person or the private parts thereof, or procure another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or, (5) whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his/her person and equal to the standards generally adopted and accepted by the public; or, (6) urinate or defecate in a place other than (a) if on public property then in a plumbing fixture provided for that purpose, or (b) if on the private property of another then in a plumbing fixture provided for that purpose, or (c) if on private property not owned or controlled by another, then within a building; or, (7) cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or, (8) use a flash or spotlight in a manner so as to annoy

or endanger others; or, (9) cause defacement, destruction, or otherwise damage to any premises or any property located thereon; or, (10) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or, (11) enter any motor vehicle of another without the consent of the owner or operator; or, (12) fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his/her official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

SEC. 6-0506. DISORDERLY CONDUCT - TRESPASS.

Subd. 1. Definitions.

A. **"Alcohol"** means beer, wine or liquor as defined in City Code, Chapter 4-01.

B. **"Motor vehicle"** has the same meaning given in Minnesota Statutes.

C. **"Controlled substance"** has the same meaning given in Minnesota Statutes.

D. **"Invitation"** means that the landowner or other person in lawful possession of the land is then and there present and states that he/she has given his/her consent, endorsement, ratification or permission; or, that the landowner or other person in lawful possession of the land has executed a written document giving his/her consent, endorsement, ratification or permission for those present to be upon the land, which written document contains the signature of such owner or possessor of the land and the date of permitted entry, is at all times in the possession of a person present, and displayed to a peace officer immediately upon request.

Subd. 2. Unlawful Acts.

A. It is unlawful for any person or persons to enter without invitation onto the private land of another for the purpose of consuming alcohol or a controlled substance.

B. It is unlawful for any person or persons to bring a motor vehicle onto the private land of another without invitation for the purpose of facilitating the consumption of alcohol or a controlled substance.

C. It is unlawful for any person to represent, orally or in writing, that he/she is the owner or in lawful possession of the land upon which entry is made, unless he/she is actually such owner or possessor.

Subd. 3. Purpose. In determining the purpose of an entry without invitation by a person or motor vehicle, factors to be considered include but are not limited to the following: (a) time of day; (b) presence of containers intended to contain or containing alcohol; (c) presence of equipment used to dispense alcoholic beverages; (d) presence of paraphernalia containing identifiable residues of a controlled substance; (e) noise level; (f) lighting; (g) identified physiological responses; and, (h) conduct of persons in the presence of a peace officer.

SEC. 6-0507. DISORDERLY CONDUCT - NOISE CONTROL REGULATIONS.

Subd. 1. Unlawful to Make Loud or Unnecessary Noises: It shall be unlawful for any person to make, or cause to be made, any loud, unnecessary or unusual noise which either annoys, disturbs, or affects the comfort, repose, health, or peace of others.

Subd. 2. Unlawful Acts: The following acts set forth in the following subsections are declared to be loud, disturbing, and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive:

- A. **Horns; Signaling Devices:** The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning.

- B. **Radios, Tape and Disc Players, etc.:** The using, operating, or permitting to be played any radio receiving set, tape or disc player, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner, considering the time and place and the purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person or persons of ordinary sensibilities.
 - 1. The play, use, or operation of any radio, tape or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at a distance of fifty feet (50') from such machine or device shall be prima facie evidence of a violation of this Section.
 - 2. When sound violating this Section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner is guilty of the violation, provided, however, that if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.
 - 3. Persons or entities may apply for a sound amplification permit from the City for events or activities which may otherwise violate the terms of this Section. This permit shall be issued by the City Administrator and shall state the guidelines for the use of the permit. The City Administrator may also use his/her discretion to deny any permit request that will result in an unreasonable exception to the noise regulations. The applicant may appeal the City Administrator's guidelines on a permit or denial of an application to the City Council.

Source: Ord. 2015-10, Sec. 1

- 4. This Section shall not apply to sound produced by the following:

- (a) Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the City, as long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
- (b) Church bells, chimes or carillons.
- (c) School bells.
- (d) Anti-theft devices.
- (e) Machines or devices for the production of sound on or in authorized emergency vehicles.
- (f) Sound amplifying equipment used to announce sporting events at athletic facilities owned by the City, the Barnesville Public School District, or any parochial schools in the City.

5. With the exception of the machines or devices listed in subsection 2B4 of this Section, this Section shall apply to all radios, tape and disc players, musical instruments, phonographs, and machines and devices for the production or reproduction of sound, whether on public or private property.

- C. **Loudspeakers and Amplifiers for Advertising:** The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure in any residentially zoned district or in any district between the hours of ten o'clock (10:00) p.m. and eight o'clock (8:00) a.m.
- D. **Yelling, Shouting, etc.:** Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.
- E. **Animals; Birds:** The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity.
- F. **Whistles or Sirens:** The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles.

- G. Exhausts:** The discharge into the open air of the exhaust of any vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- H. Defect in Vehicle or Load:** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise which shall disturb the comfort or repose of any persons in the vicinity.
- I. Sound Trucks:** The use of sound trucks or any other vehicle equipped with sound amplifying devices for any purposes except as permitted by subsection 2C of this Section or pursuant to a permit issued pursuant to subsection 2B3 of this Section.
- J. Schools, Courts, Churches, and Hospitals:** The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court, or hospital while the same are in use which unreasonably interferes with the use thereof, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- K. Hawkers; Peddlers:** The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
- L. Blowers:** The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of aerating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- M. Noisy Parties and Gatherings:**
- 1. Prohibition:** No person shall, between the hours of ten o'clock (10:00) p.m. and eight o'clock (8:00) a.m. congregate at, or participate in any party or gathering of two (2) or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. No person shall knowingly remain at such a noisy party or gathering.
 - 2. Evidence:** Noise of such volume as to be clearly audible at a distance of fifty feet (50') from the structure or building in which the party or gathering is occurring, or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of a violation of this Section.
 - 3. Duty To Disperse:** When a police officer determines that a party or gathering is in violation of this Section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of

the premises, to disperse immediately. No person shall knowingly remain at such a party or gathering.

4. Cooperation of Owner or Tenant: Every owner of such premises, or tenant in charge of such premises, who has knowledge of the disturbance shall cooperate with such police officer or officers and shall make reasonable efforts to stop the disturbance and disperse the gathering.

5. Exceptions: The following are exempt from violation of this Section:

(a) Activities which are duly authorized, sponsored or licensed by the City, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.

(b) Church bells, chimes or carillons.

(c) Persons who have gone to a party for the sole purpose of abating the violation.

(d) Sporting events held at athletic facilities owned by the City, the Barnesville Public School District, or any parochial schools in the City.

6. Prima Facie Evidence of Violation by Owner or Tenant of this Section:

(a) As to tenants, and owner if owner resides on the premises, if twice or more on the same day, or if on successive days, the Barnesville Police Department is called upon to enforce the terms of this Section either by citizen complaint or by personal investigation of a peace officer.

(b) As to the owner, if the owner does not reside at the premises, if after owner receives written notice of three (3) violations of this Section by his tenants at any premises owned by owner in the City within a six (6) month period, and after receipt of such written notice, the Barnesville Police Department is called upon to enforce this Section either by citizen complaint or by personal investigation of a peace officer.

CHAPTER 6-06

WEAPONS

SECTIONS:

- 6-0601. Dangerous Weapons and Articles.
6-0602. Firearms and Hunting Regulations.
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SEC. 6-0601. DANGEROUS WEAPONS AND ARTICLES.

Subd. 1. Unlawful Acts. It is unlawful for any person to:

A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,

B. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,

C. Manufacture or sell for any lawful purpose any weapon known as a sling-shot or sand club; or,

D. Manufacture, transfer or possess metal knuckles or a switch blade knife or an automatically opening knife; or,

E. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,

F. Sell, or have in his/her possession, any device designed to silence or muffle the discharge of a firearm; or,

G. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his/her parent or guardian or of the Police Department.

Subd. 2. Exception. Nothing in Subdivision 1 of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

Subd. 3. Discharge of Firearms, Explosives, or Other Dangerous Weapons. It is unlawful for any person to fire or discharge, or otherwise release or trigger within the City limits, any cannon, gun, pistol or other firearm, firecracker, rocket or other fireworks, slingshot, blow gun, air gun, air rifle, or other similar device commonly referred to as a B-B gun, or bow equipped with anything other than a blunt target arrow unless it is discharged at a firing range which has been approved in advance by the Chief of Police.

Subd. 4. Exception. Nothing in Subdivision 3 of this Section shall apply to a display of fireworks by an organization, or group of organizations, authorized in writing by the Council, or to a peace officer in the discharge of his/her duty, or to a person in the lawful defense of his/her person or family.

Subd. 5. Possession and Sale of Fireworks. It is unlawful for any person to sell, or have in his/her possession for any purpose other than as allowed in Subdivision 4 of this Section, any firecracker, rocket or other fireworks.

Subd. 6. Penalties.

A. Any violation of Subdivision 1 of this Section shall be a misdemeanor punishable by up to 90 days in jail and a \$700.00 fine (or any greater amount as allowed by Minnesota Statutes, Section 609.034).

B. Any violation of Subdivisions 3 or 5 of this Section shall be a petty misdemeanor punishable by a fine of up to \$200.00 (or any greater amount as allowed by Minnesota Statutes, Section 609.02, Subd. 4), except that when any person violates Subdivisions 3 or 5 within 12 months of a previous conviction under this Section, the violation shall be a misdemeanor punishable by up to 90 days in jail and a \$700.00 fine (or any greater amount as allowed by Minnesota Statutes, Section 609.034).

SEC. 6-0602. FIREARMS AND HUNTING REGULATIONS.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Firearm" means a weapon of any gauge, caliber or designation which, when a trigger is pulled or some other means of discharge employed, propels a projectile or projectiles of any kind and includes, but is not limited to, shotguns, handguns, air guns, pellet guns or B-B guns.

B. "Hunting" means carrying or discharging a firearm, bow and arrow, or other similar device in an attempt to kill game or other animals or fowl.

C. "Encased Firearm" means any firearm placed in a case in such a manner as to prevent discharge of the same.

D. "Dismantled Firearm" means any firearm which is dismantled in such a manner as to prevent discharge of the same.

Subd. 2. Unlawful Acts. It is unlawful for any person to carry or discharge a firearm which is not an encased firearm or dismantled firearm except:

A. In a range or area equipped for target practice which has been specifically described and approved by the Council.

B. Law enforcement officers in the line of duty.

C. When necessary in the lawful defense of the person or family.

D. When hunting in the Agricultural District after payment of a fee and obtaining a permit from the City, except that bow and arrow hunting is permitted.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

CHAPTER 6-07

MINORS

SECTIONS:

- | | |
|---------|----------|
| 6-0701. | Curfew |
| 6-0702. | Tobacco. |

SEC. 6-0701. CURFEW.

Subd. 1. Curfew Imposed.

A. No person under the age of 16 years, except as provided in Subparagraph B hereof, shall be on any public street or alley or in any park or other public grounds or building, place of amusement, entertainment, or refreshment, vacant lot, or any other unsupervised place between the hours of 11:00 p.m. and 5:00 a.m. of the following day.

B. The restrictions of Subparagraph A above do not apply when the minor:

1. Is accompanied by the minor's parent, guardian, or other person having the minor's legal care, custody or control;

2. Is returning home by a direct route from and within 30 minutes after, a school activity or an activity of a religious or other voluntary association when prior notice has been given to the Police Department by an adult person authorized by the school or the religious or voluntary association to do so;

3. Is carrying a certified card of employment and is on his/her way to or from his/her place of employment; or

4. Is upon an emergency errand or other legitimate business directed by the minor's parent, guardian, or other adult having lawful custody of the minor.

Subd. 2. Responsibility of Parents, Guardian, or Custodian. No parent, guardian, or other adult having custody and control of a minor under 16 years of age shall knowingly permit the minor to violate the provisions of Subdivision 1 hereof.

Subd. 3. Responsibility of Other Person. Whenever the owner or person in charge or control of any place of amusement, entertainment, refreshment, or other place of business shall find any person under the age of 16 years in such place in violation of Subdivision 1 hereof, he/she shall immediately order such person to leave, and if such person refuses to leave, the owner or person in charge shall immediately inform the Police Department of the violation.

Subd. 4. Penalties.

A. A violation of this Section shall be a petty misdemeanor, punishable by a fine of up to \$200.00.

B. A violation of this Section shall be a misdemeanor, punishable by up to 90 days in jail and a \$700.00 fine when preceded by two or more convictions under this Section within the immediate preceding 12-month period.

SEC. 6-0702. TOBACCO.

Subd. 1. Minor Defined. "Minor" means any natural person who has not yet reached the age of eighteen (18) years.

Subd. 2. Possession By Minor. It is unlawful for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the City.

Subd. 3. Use By Minor. It is unlawful for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

Subd. 4. Procurement By Or For Minor. It is unlawful:

A. For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, or tobacco related device;

B. For any person to purchase or otherwise obtain such items on behalf of a minor;

C. For any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor; and

D. For any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device.

E. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the City.

Subd. 5. False Identification. It is unlawful for any minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 6. Exceptions and Defenses. Nothing in this Section shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It is an affirmative defense to the violation of this Section for a person to have reasonably relied on proof of age as described by State law.

Subd. 7. Penalty.

A. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices shall take tobacco related education classes as directed by the Hearing Officer.

B. Any licensee found to have violated this Section, or whose employee shall have violated this Section, shall be charged an administrative penalty of \$75.00 and a written violation warning from the City for a first violation of this Section. For a second violation, an administrative penalty of \$200.00 shall be imposed and the licensee's authority to sell tobacco products or tobacco related devices shall be suspended for not less than three (3) days. For a third violation, an administrative penalty of \$250.00 shall be imposed and the licensee's authority to sell tobacco products or tobacco related devices shall be suspended for not less than ten (10) days. For a fourth violation, the licensee's authority to sell tobacco products or tobacco related devices shall be revoked.

C. An individual who sells tobacco products or tobacco related devices to a person under the age of eighteen (18) years shall be charged an administrative fee of \$50.00. Upon a juvenile violating this Section, the penalty shall be in accordance with Minnesota Statutes, Section 260.195.

(SEE CHAPTER 4-02 FOR TOBACCO REGULATIONS)

CHAPTER 6-08

ABANDONING A MOTOR VEHICLE

SECTIONS:

6-0801. Abandoning a Motor Vehicle.

SEC. 6-0801. ABANDONING A MOTOR VEHICLE. It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169.

CHAPTER 6-09

PUBLIC PARKS

SECTIONS:

- 6-0901. Rules and Regulations Governing Public Parks.
 - 6-0902. Motorized Watercraft.
 - 6-0903. Ice Fishing.
 - 6-0904. Tobacco-Free Parks. (Source: Ord.2016-02, Sec. 2)
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SEC. 6-0901. RULES AND REGULATIONS GOVERNING PUBLIC PARKS.

Source: Ord. 2013-8, Sec. 1 (2013); Ord. 2015-08, Sec. 1 (2015)

Subd. 1. Adoption. The Council may by resolution adopt, and from time to time amend, rules and regulations governing public parks. It is unlawful to violate such rules and regulations as are conspicuously sign-posted in such parks.

Subd. 2. Hours. It is unlawful for any person to park in, leave any vehicle in, or be in or remain in any park, including any City waterways or lakes, between the hours of 10:00 p.m. and 6:00 a.m. of the day following; provided, however, that this Section shall not apply to those vehicles or persons involved in organized activities which are authorized by permit issued by the City to remain in a park.

Subd. 3. Picnic Shelters. The fee to rent a picnic shelter and the 25 feet of park space around it in all City Parks is \$25 for the first four hours and \$5 for each additional hour. Non-profits using the park in groups larger than twelve are required to obtain a permit, but the fee will be waived. Reservations must be made 24 hours prior to the planned use of the shelter and by noon on Friday. Park shelters in all parks that have not been reserved according to this procedure are available on a first-come, first-served basis.

Subd. 4. Group Permits. Groups using City Parks in numbers in excess of 12 people are required to purchase a permit of \$25 for the first four hours and \$5 for each additional hour. Non-profits using the park in groups larger than twelve are required to obtain a permit, but the fee will be waived. Publically sponsored events and sporting events scheduled through the School District or the City will be exempt from this permit process. Also, groups who have obtained a permit pursuant to Subdivision 3 of this section are exempt from the requirements of this Subdivision.

SEC. 6-0902. MOTORIZED WATERCRAFT.

Subd. 1. Definition. "Motorized Watercraft" means any watercraft powered by any source of power other than wind, hand paddles or oars, or foot paddles and includes, but is not limited to, boats, rafts, skis, jet skis, and barges.

Subd. 2. Unlawful Act. It is unlawful for any person to launch any motorized watercraft upon any waterway or body of water within the City from any City-owned land adjoining any waterway or body of water in the City unless permission is secured in advance in writing from the Chief of Police for each launching.

SEC. 6-0903. ICE FISHING. It is unlawful for any person to erect or maintain an ice fishing house on any waterways or lakes within the City.

SEC. 6-0904. TOBACCO-FREE PARKS. (Source: Ord. 2016-02, Sec. 2)

Subd. 1. Definitions.

A. “All times” means 24 hours a day, seven days a week.

B. “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to stimulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. The term includes any such devices, whether they are manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, or under any other product name or descriptor.

C. “Park Property” means all facilities, parks, trails, open space, and other property owned, leased, rented, contracted, used, or controlled by the City of Barnesville for parks and recreational purposes.

D. “Smoking” means inhaling or exhaling from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking shall include being in possession a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, or an electronic delivery device that is turned on or is otherwise activated.

E. “Staff” means any person employed by the City of Barnesville in a full- or part-time capacity, any position contracted for by the city, or any person working on a volunteer basis. The term includes, but is not limited to: elected and appointed officials, city personnel, contractors, consultants, and vendors.

F. “Tobacco Product” means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including but not limited to cigarettes, cigars and other smoking tobacco; snuff and other chewing tobaccos; and any other kinds and forms of tobacco.

G. “Tobacco Use” means the act of smoking, the use of smokeless tobacco, or the use of any other tobacco product in any form, including the use of electronic delivery devices.

H. “Visitor” means any person subject to this policy who is not city staff.

Subd 2. Policy. The sale and use of tobacco products and electronic delivery devices is prohibited at all times in or on all park property the City of Barnesville has the authority to control regardless of location.

Subd. 3. Applicability. This policy applies to all visitors and staff on park property. Organizers and attendees at public or private events on city park property are required to abide by this policy. Event organizers are also responsible for communicating and enforcing this policy.

Subd. 4. Exceptions. It is not a violation of this policy to use a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. It is not a violation of this policy for a Native American to use tobacco on park property as part of a traditional Native American spiritual or cultural ceremony. Approval from city administration must be requested and received prior to the ceremony.

Subd. 5. Dissemination. Signage will be posted at strategic locations to notify staff and visitors of this policy.

Subd. 6. Compliance and Enforcement. The success of this policy depends on the consideration and cooperation of both tobacco-users and non-users. Enforcement of this policy is a shared responsibility of staff and park visitors. Individuals acting in violation of this policy will be reminded and asked to comply. Staff found to have violated this policy may be subject to disciplinary action. Visitors who violate this policy may be asked to leave park property.

CHAPTER 6-10

OFFENSES AGAINST SENSIBILITY

SECTIONS:

- 6-1001. Obscenity Prohibited.
- 6-1002. Furnishing Obscene Material.
- 6-1003. Offenses Relating to Drug Paraphernalia.

SEC. 6-1001. OBSCENITY PROHIBITED.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

1. "Nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

2. "Obscene performance" means a performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

3. "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

4. "Performance" means any play, motion picture, film, dance, or other exhibition pictured, animated, or live, performed before an audience.

5. "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

6. "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

7. "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Subd. 2. Unlawful Acts. It is unlawful for any person, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly (1) exhibit an obscene performance, or (2) directly or indirectly sell an admission ticket or other means to gain

entrance to an obscene performance, or (3) directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.

Subd. 3. Prosecution. Any prosecution under this Section shall include the following elements: (1) that the average person, applying contemporary community standards, would find the performance, taken as a whole, appealing to the prurient interest of the audience; (2) that the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and (3) that the performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

SEC. 6-1002. FURNISHING OBSCENE MATERIAL.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. "Furnish" - To sell, give, rent, loan or otherwise provide.

B. "Material" - Any printed matter, visual representation, or sound recording, and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

C. "Nudity" - Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

D. "Obscene" - Material which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit descriptions or narrative accounts of sexual conduct.

E. "Obscenities" - Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

F. "Sado-masochistic Abuse" - Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

G. "Sexual Conduct" - Human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

H. "Sexual Excitement" - The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Subd. 2. Unlawful Act. It is unlawful for any person to furnish another person obscene material.

Subd. 3. Prosecution. Any prosecution under this Section shall include the following elements: (1) that the average person, applying contemporary community standards, would find the material, taken as a whole, appealing to the prurient interest of the audience or reader; (2) that the material describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene"; and, (3) that the material, taken as a whole, lacks serious literary, artistic, political or scientific value.

SEC. 6-1003. OFFENSES RELATING TO DRUG PARAPHERNALIA.

Subd. 1. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

Subd. 2. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Minnesota Statutes Chapter 152. Any violation of this section is a misdemeanor.

Subd. 3. Definitions:

A. DRUG PARAPHERNALIA: a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Minnesota Statutes Chapter 152.

B. Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes.

C. The term "paraphernalia" includes, without limitation:

i. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

ii. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

iii. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant, which is a controlled substance.

iv. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.

v. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

vi. Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

vii. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

viii. Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances.

ix. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

x. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances.

xi. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing controlled substances to include but not limited to marijuana, cocaine, hashish, or hashish oil into the human body, including:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(b) Water pipes.

(c) Carburetion tubes and devices.

(d) Smoking and carburetion masks.

(e) Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.

(f) Miniature cocaine spoons and cocaine vials.

(g) Chamber pipes.

(h) Carburetor pipes.

(i) Electric pipes.

(j) Air-driven pipes.

(k) Chillums.

(l) Bongs.

(m) Ice pipes or chillers.

xi. Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.

Subd. 4. Drug Paraphernalia Guidelines: In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors:

A. Statements by an owner or by anyone in control of the object concerning its use.

B. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

C. The proximity of the object, in time and space, to a direct violation of this ordinance.

D. The proximity of the object to controlled substances.

E. The existence of any residue of controlled substances on the object.

F. Direct or circumstantial evidence of the intent of an owner, or of any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of this ordinance. The innocence of an owner, or of any person in control of the object, as to a direct violation of this ordinance may not prevent a finding that the object is intended or designed for use as drug paraphernalia.

G. Instructions, oral or written, provided with the object concerning the object's use.

H. Descriptive materials accompanying the object, which explain or depict the object's use.

I. National and local advertising concerning the object's use.

J. The manner in which the object is displayed for sale.

K. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products.

L. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.

M. The existence and scope of legitimate uses for the object in the community.

N. Expert testimony concerning the object's use.

O. The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.

Subd. 5. Forfeiture. All drug paraphernalia as defined in this ordinance are subject to forfeiture under Minnesota Statutes Sections 609.531 to 609.5318. All drug paraphernalia possessed, transferred, sold, or offered for sale, in violation of this ordinance are hereby defined as contraband for purposes of Minnesota Statute Section 609.5316, subd. 1.

CHAPTER 6-11

FIRE, BURGLARY, AND SAFETY ALARM REGULATIONS AND REQUIREMENTS

SECTIONS:

6-1101. Fire, Burglary and Safety Alarm Regulations and Requirements.

SEC. 6-1101. FIRE, BURGLARY AND SAFETY ALARM REGULATIONS AND REQUIREMENTS.

Subd. 1. Purpose. This Section regulates the use of fire, burglary and safety alarms for the purpose of preventing the public safety services from misuse of public safety alarms through frequency of false alarms.

Subd. 2. Definitions. For the purpose of this Section:

A. "Alarm User" means the person using an alarm system to protect his premises, regardless of whether he owns or leases the system.

B. "Alarm System" means and includes any alarm installation designed to be used for the prevention or detection of burglary, robbery, or fire on the premises which contain an alarm installation. Automobile alarm devices shall not be considered an alarm system.

C. "False Alarm" means the occurrence of an alarm in an alarm system for any reason other than an authorized intrusion or attempted robbery, or call to an existing fire.

D. "Financial Institution" means a commercial bank, savings and loan association, credit union or establishment leasing safe deposit boxes.

E. "Audible Alarm" means a device designed for the detection of smoke or fire or of an unauthorized entry on the premises, which alarm activates or generates an audible sound on or near the premises.

F. "Calendar Year" means the period January 1 through December 31 of each year.

G. "Residential Alarm User" means occupied housing units, residential homes and condominiums.

H. "Non-Residential" means commercial, industrial, business, State agencies, special purpose units of government, apartment complexes.

Subd. 3. Regulations and Requirements.

A. Alarm User Registration. Following the first false alarm within any calendar year, the alarm user shall fill out and return to the Police Department the "Alarm User Registration" form as provided within 30 days.

B. False Alarm Statement of Correction. Following the sixth false alarm within the calendar year, the alarm user shall fill out and return to the Police Department within five days the "False Alarm Statement of Corrections". This form shall contain a detailed statement of the corrective actions the alarm user has taken to prevent additional false alarms, and to notify alarm user of impending forfeitures should additional false alarms occur.

C. Audible Alarms. All audible alarms shall meet the following requirements:

1. Every person maintaining an alarm system with an audible alarm signal shall post a notice containing the name and telephone number of a person to be notified to render repairs or service to such alarm system during any hour of the day or night upon activation of such alarm system. Such notice shall be posted at the main entrance to such premises or near the alarm in such a position as to be legible from the ground level adjacent to the building.

2. Alarm systems with audible alarm signals, except for fire alarms, shall have an automatic shut-off which will silence the audible alarm signal within a period not to exceed 20 minutes.

D. In-House Annunciation Panel. Financial institutions having an alarm system with multiple sensors shall have an in-house annunciation panel providing specific annunciation of the sensors at a private monitoring location on the premises. When, in the judgment of the Police Department, no such private monitoring location is possible upon the premises, the requirements of this Subparagraph D may be waived. Compliance with this Subparagraph D is required of all alarm systems installed in financial institutions after the effective date of this Section, and within one year from effective date of this Section for currently operating alarm systems.

E. Recorded Messages. No person shall install an alarm system or use, monitor, and possess an operative alarm system which utilizes taped or prerecorded messages which deliver a telephone alarm message to the Police or Fire Departments. No automatic dialing services or systems are permitted in any form, including automatic dialing of the emergency number 911.

F. Unlawful Act. It is unlawful for any person to fail or refuse to comply with the regulations set forth in this Subdivision.

Subd. 4. Schedule of Payment Rates.

A. Residential users of alarm systems shall be permitted six (6) false alarms per calendar year and pay \$50.00 per false alarm thereafter.

B. Non-residential users of alarm systems shall be permitted six (6) false alarms per calendar year and pay \$75.00 per false alarm thereafter.

C. There is hereby established a ninety (90) day grace period for all newly installed alarm systems; all false alarms occurring during this period shall not be considered part of the six allowable false alarms per year. The installation date must be verified by a dated sales receipt for the alarm system, or a dated invoice from the installer of the alarm system.

D. A false alarm is excused if prior written notification stating the exact time is given to the Police Department, and the alarm is activated for the purposes of, testing or upgrading the alarm system.

E. All payments provided for in this Subdivision shall be made to the City within 30 days after mailing a statement to the alarm user. Payments not made within 30 days are delinquent and a penalty of 10% of the amount due will be added. All delinquent charges and penalties shall be certified by the City Administrator to the County Auditor who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the property of the delinquent alarm user.

F. Confidentiality. All information submitted in compliance with this Section shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law. Subject to requirement of confidentiality, the Chief of Police may develop and maintain statistics for the purpose of ongoing alarm systems evaluation.