

# *City of Pennock*

## Code of Ordinances

A Community With Pride



**Adopted:**  
**December 6, 2016**

*Prepared by the  
Mid-Minnesota  
Development Commission*

# **PENNOCK CITY CODES**

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# **CHAPTER I: CODE PROVISIONS**

## ***Chapter Contents***

### **Section 10: Code Provisions**

#### **Section 10: Code Provisions**

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## *Chapter I: Code Provisions*

### **Subsection 10.01 Title of Code:**

- A. All ordinances of a permanent and general nature of the City of Pennock, as revised, codified, rearranged, renumbered, and consolidated into component codes, chapters sections and subsections, shall be known and designated as the “Municipal Code,” for which designation “Code of Ordinances,” “Codified Ordinances” or “Code” may be substituted. Code chapter, section and subsection headings do not constitute any part of the law as contained in the Code.
- B. All references to chapters, sections and subsections are to the components of the Code, unless otherwise specified. Any component Code may be referred to and cited by its name, such as the “Traffic Code.” Sections and Subsections may be referred to and cited by number, such as “10.01”, meaning Section 10, Subsection 01. Headings and captions used in this Code other than the chapter, section and subsection numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

### **Subsection 10.02 Rules of Interpretation:**

- A. **Generally.** Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of State law.
- B. **Specific rules of interpretation.** The construction of all ordinances of this City shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:
  - 1. **AND or OR.** Either conjunction shall include the other as if written “and/or,” whenever the context requires.
  - 2. **Acts by assistants.** When a statute, Code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.
  - 3. **Gender; singular and plural; tenses.** Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.



## ***Chapter I: Code Provisions***

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

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

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

**Subsection 10.05 Definitions:**

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

## *Chapter I: Code Provisions*

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

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

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

## ***Chapter I: Code Provisions***

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

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

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

**Subsection 10.11 Reasonable Time:**

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

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

## ***Chapter I: Code Provisions***

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

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

**Subsection 10.15 Repeal or Modification of Ordinance:**

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

**Subsection 10.16 Ordinances which Amend or Supplement Code:**

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

## ***Chapter I: Code Provisions***

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

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

### **Subsection 10.19 Adoption of Statutes and Rules by Reference:**

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

### **Subsection 10.20 Enforcement:**

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

## *Chapter I: Code Provisions*

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

- C. The City Clerk Administrator and any City Official or employee designated by this Code who has the responsibility to perform a duty under this Code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this Code.
- D. If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk Administrator, Peace Officer, or any employee or official charged with the duty of enforcing the provisions of this Code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this Code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.
- E. Every licensee, owner, resident or other person in control of property within the City shall permit at reasonable times inspections of or entrance to the property by the City Clerk Administrator or any other authorized City Officer or employee only to determine whether the provisions of this Code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or City service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Clerk Administrator to object to the termination before it occurs, subject to appeal of the Clerk's decision to the City Council at a regularly scheduled or special meeting.
- F. Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare. Potentially dangerous and/or life threatening situations constitute implied consent.

## ***Chapter I: Code Provisions***

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

### **NOTICE OF CODE VIOLATION**

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

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

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

Date: ***(date of notice)***

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

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

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

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

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

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

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

Signed:

***(Name and Title of Person Giving Notice)***

**Subsection 10.99 General Penalties:**

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



## **CHAPTER III: ADMINISTRATION**

### ***Chapter Contents***

Section 30: Corporate Seal

Section 31: City Council

Section 32: Planning Commission

Section 33: Law Enforcement

Section 34: Area Fire Department and First Responders

Section 35: Personnel

### **Section 30: Corporate Seal**

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

**Section 31: City Council**

***Section Contents***

Subsection 31.01	Establishment of City Council
Subsection 31.02	City Council Meetings
Subsection 31.03	Presiding Officer
Subsection 31.04	Minutes
Subsection 31.05	Order of Business
Subsection 31.06	Voting
Subsection 31.07	Powers of the City Council
Subsection 31.08	Suspension or Amendment of Rules
Subsection 31.09	Quorum for Conducting Business
Subsection 31.10	Financial Audits
Subsection 31.11	Fees and Charges
Subsection 31.12	Compensation of Mayor and Council Members
Subsection 31.13	Compensation of Officers and Employees
Subsection 31.14	Background Information

**Subsection 31.01 Establishment of the City Council:**

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

**Subsection 31.02 City Council Meetings:**

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

Minnesota Statutes, as amended, lists the following five types of meetings that *may be closed* by a public body:

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

### ***Chapter III: Administration***

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

Minnesota Statutes, as amended, lists the following types of meetings that ***must be closed*** by a public body:

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

### ***Chapter III: Administration***

4. Appoint the City Clerk Administrator and other officers and employees and members of departments, boards, commissions and committees as necessary;
5. Establish and appoint Council Members to those City Council committees as are deemed appropriate for the efficient and orderly management of the City;
6. Adopt the Code's corresponding ***Schedule of Fees***.

F. ***Public meetings.*** All City Council meetings, including special, emergency and adjourned meetings and meetings of City Council committees, shall be conducted in accordance with the Minnesota Open Meeting Law, as provided in Minnesota Statutes, as amended.

#### **Subsection 31.03 Presiding Officer:**

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

#### **Subsection 31.04 Minutes:**

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

### ***Chapter III: Administration***

corrections, the minutes shall stand approved. The City Clerk Administrator shall publish minutes of each meeting in the official City newspaper no later than one month after their approval by the City Council.

#### **Subsection 31.05 Order of Business:**

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

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

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

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

#### **Subsection 31.07 Powers of the City Council:**

- A. ***City Employees.*** The City Clerk Administrator shall be appointed by members of the City Council on a majority vote from a list of persons interested in filling the position. All other City employees can either be hired in the same fashion or can be done so by an authorized person and/or an appointed hiring committee.
- B. ***Ordinances, Resolutions, Petitions, Contracts, and Official City Business.*** All official City business, including but not limited to adopting ordinances, resolutions, and entering into contracts, shall be passed by the City Council by a majority vote. All official business shall be signed by the Mayor, attested by the City Clerk, published in the official City newspaper and filed by the City Clerk. Proof of publication of every ordinance adopted shall be attached and filed with the ordinance, including the previous number and title on ordinances that are revised and/or repealed, in whole or in part.

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

#### **Subsection 31.09 Quorum for Conducting Business:**

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

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

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

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

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

#### **Subsection 31.14 Background Information:**

##### **A. *Applicants for City employment.***

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



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acquired shall be maintained at the Law Enforcement or County Sheriff's Office under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by Law Enforcement or the County Sheriff's Office to the hiring authority, including the City Council, the City Clerk Administrator or other city staff involved in the hiring process.

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

#### ***B. Applicants for City licenses or Permits.***

1. ***Purpose.*** The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.
2. ***Criminal history license background investigations.*** Law Enforcement or the Sheriff's Office is hereby authorized to do a criminal history background investigation on the applicants and their employees for all official City business.
3. In conducting the criminal history background investigation, Law Enforcement or the Sheriff's Office is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA

### ***Chapter III: Administration***

policies. Any data that is accessed and acquired shall be maintained at the Law Enforcement or Sheriff's Office. A summary of the results of the Computerized Criminal History data may be released by the Law Enforcement or Sheriff's Office to the City Council, the City Clerk Administrator or other City staff.

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

**Section 32: Planning Commission**

Subsection 32.01	Establishment of the Planning Commission
Subsection 32.02	Membership and Organization
Subsection 32.03	Powers and Duties
Subsection 32.04	Decisions

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

**Subsection 32.02 Membership and Organization:**

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

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

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

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

**Section 33: Law Enforcement**

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

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

**Subsection 33.01 Resolution Adopting Agreement for Law Enforcement Services (updated annually):**

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

WITNESSETH:

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

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

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

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

**Subsection 33.02 Kandiyohi County Sherriff's Office:**

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

- A. Services contemplated hereunder shall include the enforcement of state statutes, municipal ordinances of the same type or nature as normally enforced by the Sheriff in unincorporated territories of the County. Included hereunder are traffic enforcement and other criminal statutes, but shall exclude such licensing or other ordinance requirements, which are essentially civil in nature such as building code, animal control, zoning, etc.
- B. The rendition of such service, standards of performance, discipline of officers assigned, and any other matters incidental to the performance of such services and the control of personnel so employed, shall remain in the County. In the event of dispute between the parties as to actual performance rendered hereunder, tickets issued, criminal actions commenced, or any other matters determining the level or actual performance of law enforcement services rendered, the actual determination of such cases shall be made exclusively by the Sheriff of the County and those responsible for the prosecution thereof.

**Subsection 33.03 City Cooperation:**

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

**Subsection 33.04 Labor and Equipment:**

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

**Subsection 33.05 Liability:**

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

**Subsection 33.06 Effective Date (updated annually):**

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

**Subsection 33.07 Compensation Rate and Hours:**

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

### ***Chapter III: Administration***

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

#### **Subsection 33.08 Prosecution of Fines and Arrests:**

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

#### **Subsection 33.09 Revisions to Agreement:**

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



### *Chapter III: Administration*

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

Subsection 34.01	Resolution Adopting Joint Powers Agreement
Subsection 34.02	General Purpose (Article 1)
Subsection 34.03	Joint Powers Board (Article 2)

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

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

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

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

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

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

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

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

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

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

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

- A. There is hereby created pursuant to this Agreement a Joint Powers Board, hereinafter referred to as "Board", to be known as the Pennock Fire Department JOINT POWERS BOARD. The governing body of the Joint Powers Board shall consist of the following persons: The City Council of the City of Pennock shall appoint 2 members who must be members of the Pennock City Council and two persons appointed by each of the Townships Board of Supervisors of Mamre, St. Johns, Dovre and Arctander Townships who must be members of Township Boards. The board members shall serve at the pleasure of the governmental unit which appointed the member.
- B. The Joint Powers Board is hereby authorized and commissioned to be the entity to carryon the day to day operation of the fire department, and the first responders unit and to be the owner of all properties, supplies and equipment necessary to carry out the functions, purposes and duties encompassed within this agreement. The City and Townships shall deposit funds with the Board in such amounts and at such times as the Townships and City shall jointly agree and said funds shall be disbursed by the Treasurer of the Fire Department and countersigned by a designated member of the Board of Joint Powers, for the purpose of purchase of supplies and equipment for maintaining the fire department, and first responders unit and its facilities. The board based on the annual budget submitted by the Fire Department will deposit only operating funds with the Fire Department. The department is authorized to disburse those funds for monthly payments as needed to operate the Fire Department. The Joint Powers Board will maintain a separate account and accounting for all funds held for capital purchases. The Joint Powers Board will be required to authorize any capital purchase requests in excess of \$1,000.00. Capital purchases under \$1,000.00 can be authorized by the designated Chairman of the Joint Powers Board.
- C. The Board shall be furnished an accounting of the income and disbursements incurred for the prior year within 30 days of the year end. Said accounting shall also be provided to the City Council and to each Township Board of Supervisors of Mamre, St. Johns, Dovre and

### ***Chapter III: Administration***

Arctander Townships. In addition, any Township or the City can request an accounting at any other time. The Books of Account shall be available to inspection by any member at any time.

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

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

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### **Section 35: Personnel**

#### **Subsection 35.01 City Clerk Administrator:**

- A. ***City Clerk Administrator.*** The City Clerk Administrator shall be appointed by members of the City Council on a majority vote from a list of persons interested in filling the position.
- B. ***City Minutes.*** Although the City Clerk Administrator does not have a vote, it shall be the duty of the City Clerk Administrator to be present at each meeting and record the proceedings, to be known as the City Minutes. The City Clerk Administrator shall publish minutes of each meeting in the official City newspaper no later than one month after their approval by the City Council.
- C. ***Treasurer.*** Pursuant to Minnesota Statutes, as amended, the offices of Clerk Administrator and Treasurer in the City of Pennock, Kandiyohi County, Minnesota, are hereby combined in the office of City Clerk Administrator. The City Clerk Administrator shall also be responsible for giving the Treasurer's report and other financial information as the Council may request.
- D. The City Clerk Administrator is an employee of the City who shall report directly to the City Council.

# CHAPTER V: PUBLIC WORKS & SERVICES

## *Chapter Contents*

Section 50: Garbage and Rubbish

Section 51: Sewer and Water Regulations

## **Section 50: Garbage and Rubbish**

### *Section Contents*

Subsection 50.01	Definitions
Subsection 50.02	Sanitation Collection Service Required
Subsection 50.03	Container Required
Subsection 50.04	Meddling with Trash Receptacles Prohibited
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Subsection 50.06	Sanitation Service: City Options
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Subsection 50.10	Manner of Collection and Transportation
Subsection 50.11	Licensing for Collection
Subsection 50.12	Collection of Leaves, Trees or Tree Limbs
Subsection 50.99	Violations and Penalties

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

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

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

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

**Subsection 50.03 Container Required:**

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

**Subsection 50.04 Meddling with Trash Receptacles Prohibited:**

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

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

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

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

**Subsection 50.08 Prohibited Acts:**

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

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

- A. It shall be the duty of the owner or person otherwise in charge of multi-family, institutional or industrial premises within the City to cause all garbage and trash accumulated on the premises to be placed in disposable containers or commercial-type containers. Commercial-type containers may be

used and may be placed at a location on the premises as arranged between the customer and the collector, but subject to review by the City at any time.

- B. Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.
- C. The amount and character of garbage shall be considered in establishing size of commercial containers and frequency of pickup. The City shall have final authority to establish the size and frequency based on the history of amount and type of garbage generated by the customer. The collection and removal of garbage and trash from premises used for commercial, institutional, or industrial purposes shall be made as often as necessary in order to maintain the premises free of accumulations. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

**Subsection 50.10 Manner of Collection and Transportation:**

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

**Subsection 50.11 Licensing for Collection:**

- A. **Purpose.** In order to provide for a continuous system of refuse collection and disposal in a manner which meets the needs and conveniences of the residents of the City and in order to protect the area from the problems of uncoordinated, unsanitary and improper solid waste disposal, the City Council may determine that it is in the best interests of the residents of the City to require licenses of persons collecting or hauling garbage and rubbish for hire, reserving to the City the right and authority to contract with one or more operators to provide these services.
- B. **Licensing.** No person may collect or haul garbage or rubbish within the City without first obtaining a written license from the City Council. An application for a license shall be submitted in writing to the City Clerk Administrator, and shall contain the following information:
  - 1. Name and address of the applicant;



2. Description of the equipment which will be used within the City by the applicant;
  3. A schedule of the rate that will be charged by the applicant for the various categories of customers within the City;
  4. Evidence of compliance with the other applicable sections of the City's Codes.
- C. **Franchise.** The City Council may exercise its reserved right to contract with one or more operators for the collection of garbage and rubbish within the City.
- D. **Suspension of license or contract.** A contract or license issued under the provisions of this section may be revoked or suspended by a majority vote of the City Council for a violation of this Chapter or other applicable regulations of law upon a showing that the contractor or licensee has failed to comply with that regulation.
- E. **Financial responsibility.** The licensee or contractor shall show financial responsibility or a certificate of insurance coverage prior to obtaining the license or franchise whereby each vehicle to be used by the licensee or contractor shall be covered against loss or injury in the following amounts: \$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case; \$1,500,000 for any number of claims arising out of a single occurrence. The licensee or contractor shall hold the City harmless and agrees to defend and indemnify the City, and the City's employees and agents, for any claims, damages, losses, and expenses related to the work under the license or contract. The City shall be named as an additional insured under that insurance for the services provided under the license or contract. The licensee's or contractor's insurance shall be the primary insurance for the City and the licensee or contractor shall provide a certificate of insurance on the City's approved form which verifies the existence of the insurance required, including provisions to hold the City harmless and defend and indemnify the City. The licensee or contractor shall also provide evidence of workers compensation insurance for employees. These insurance policies shall be for the full term of the license or franchise and shall provide for the giving of ten days prior notice to the City of the termination or cancellation of these policies. In case any policies are terminated or cancelled, the license or contract shall be automatically revoked upon receipt by the City Clerk Administrator of the termination or cancellation.
- F. **Design of equipment.** All trucks or motor vehicles used by the licensee or contractor shall be water-tight so as not to allow the leakage of liquids or refuse while hauling the same and shall be covered with a covering to prevent the scattering of its contents.
- G. **Inspections.** All vehicles used for garbage or rubbish shall be made available for inspection within the City at the times and places as the City Council may designate.

H. **Bond.** The contractor or licensee may be required to furnish a surety bond in an amount as the City Council deems necessary running to and approved by the City Council, guaranteeing the franchisee's or licensee's faithful and continuous performance of the terms of the franchise, license or contract.

(I) ***Licensee requirements.***

(1) Licensees must impose charges for the collection of garbage or rubbish consistent with State Statutes, as amended from time to time, that increase with the volume or weight of the garbage or rubbish collected. Licensees must not impose any additional charges on customers who recycle.

(2) Where a licensee imposes charges by volume instead of weight, the licensee must establish a base unit size for an average small quantity household and offer a multiple pricing system that ensures that the amounts of waste generated in excess of the base unit amount are priced higher than the base unit.

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

**Subsection 50.99 Violations and Penalties:**

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

## **Section 51: Sewer and Water Regulations**

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Subsection 51.30	Administration
Subsection 51.99	Violations and Penalties

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

**Subsection 51.02 Establishment of Municipal Water System:** The City of Pennock’s Municipal Water

System, hereafter referred to as “the Water System,” is hereby established.

**Subsection 51.03 Connection:** Any person, firm or corporation desiring to connect with and use the municipal sewer or water system, shall make an application to the City.

**Subsection 51.04 Acceptance of Service:**

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

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

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

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

**Subsection 51.08 Required Connection:**

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

1. The applicant shall have certified that all the provisions of this Ordinance with respect to the destruction or removal of any private sewer system have been complied with or that no such system exists on the premises.
  2. That the applicant agrees to pay for any additional charges which may be required under this Ordinance.
  3. That the applicant has provided or will provide before connection any trap or granted basin which will prevent any wastes from entering the system that are by this Ordinance prohibited from being discharged into the system.
  4. That the sewer or water line or lines connecting the building or buildings on his or her premises with the Sanitary Sewer System comply with the Minnesota Plumbing Code in effect at the time the application is filed.
  5. That the applicant, owner, occupant, or user of such premises shall be liable for all repairs required to any sanitary sewer lines and infrastructure, as well as installation and maintenance of in-house lift pumps, necessary for connecting and maintaining the connection of the premises to the street mains, including any necessary property repairs.
  6. Either that the applicant is the owner of the premises of that he or she has the authority to bind the owner to the conditions of the permit.
  7. That the owner shall be liable for any fees, charges or costs of repairs.
- B. In the event an owner shall fail to connect to the sewer or water system after proper notice, the City shall undertake to have the connection made and shall assess the cost thereof against the benefited property. The assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the County Auditor and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Chapter.
- C. All costs and expenses incidental to the installation and connection of properties to the sewer and water system shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.
- D. The City shall retain the right to deny service based upon unreasonable expense.

**Subsection 51.09 Extension of Service:** Whenever the present sewer system is extended, all structures used for living purposes located on such extensions shall be connected within twelve (12) months from the

date the extension is ready for use. All extensions to any dwelling shall be paid by the developer or property owner in full when improvement is completed.

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

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

**Subsection 51.12 Delinquent Accounts:**

- A. All charges for water and sewer shall be due on the 20<sup>th</sup> of each month and shall be considered delinquent if not paid on that date.
- B. Penalties and interest for delinquent accounts may be assessed as established in the City's *Schedule of Fees*.
- C. Whenever any such charges, penalties, or interest is delinquent, the City may shut off water service to such premises. The owner shall pay the connection fee once sewer or water service is restored as established in the City's *Schedule of Fees*.
- D. Delinquent accounts shall be certified to the City Clerk Administrator who shall prepare an assessment roll each year providing for assessment of the delinquent accounts against the respective properties served. The assessment roll shall be delivered to the council for adoption on or before October 1<sup>st</sup> of each year for certification to the county auditor for collection along with taxes.

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

**Subsection 51.14 Procedure for Shut-off of Service:** Water shall not be shut off for either being delinquent on payment or for being in violation of this Code until notice and an opportunity for a hearing

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

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

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

**Subsection 51.16 Discharge Prohibited:** No person shall discharge or cause to be discharged any collected stormwater, groundwater, roof runoff, sump pump, swimming pool, yard drainage, yard fountain, pond overflow, or any other surface water drainage into the sewer or water system. Unpolluted water or waste shall be discharged only to storm sewers or to natural outlets. The City reserves the right to inspect all properties to ensure this requirement. Violations shall be considered a misdemeanor and as such shall be subject to fines and/or legal action for each day and/or occurrence committed.

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

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

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

**Subsection 51.20 Conformances to State Building and Plumbing Code Requirements:**

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

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

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

**Subsection 51.23 Licenses:**

- A. **Required.** No person shall make a service connection with any public sewer unless regularly licensed under this Chapter to perform the work, and no permit shall be granted to any person except a regularly licensed person.
- B. **Application.** Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Public



Works Superintendent for recommendations to the Council. If approved by the Council, the license shall be issued by the City Clerk Administrator upon the filing of a bond as hereinafter provided.

- C. **Issuance.** No license shall be issued to any person until a policy of insurance to the City, approved by the Council, is filed with the City Clerk Administrator conditioned that the licensee will indemnify and save harmless the City from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over that opening to the condition existing prior to installation, adequately guard with barricades and lights, and will keep and maintain the same to the satisfaction of the Public Works Superintendent, and shall conform in all respects to any rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.
- D. **Fee.** The license fee for making service connections shall be as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 50.11 of this Code, as that ordinance may be amended from time to time. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause.
- E. **Suspension or revocation.** The Council may suspend or revoke any license issued under this subchapter for any of the following causes:
1. Giving false information in connection with the application for a license.
  2. Incompetence of the licensee.
  5. Violation of any provisions of this ordinance or State statutes.

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

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system.
2. Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities.
3. Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewer or water disposal system.

4. Any wastewater containing toxic pollutants.
5. Any wastewater having a temperature greater than 150 degrees F (65.60 C) or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.
6. Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees C and 65.6 degrees C).
7. Any garbage that is not biodegradable.
8. Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by State or Federal regulations.
9. Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation or ordinance of any regulatory agency, or State or Federal regulation.
10. Any waters or wastes containing BOD<sub>5</sub> or suspended solids of character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works.
11. Any stormwater, groundwater, roof runoff, yard drainage, yard fountain, pond overflow, or similar water.

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

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

**Subsection 51.27 Special Agreement and Arrangement:** No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the City and any industrial

concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern; provided, that National Categorical Pretreatment Standards and the City's NPDES Permit limitations are not violated.

**Subsection 51.28 Sewer Service Fund:**

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

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

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

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

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

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

**INDUSTRIAL USERS or INDUSTRIES.**

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

Division A. Agriculture, forestry and fishing

Division B. Mining

Division D. Manufacturing

Division E. Transportation, communications, electric, gas, and sanitary sewers

Division I. Services

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

**MAY.** The term is permissive.

**OPERATION AND MAINTENANCE.** Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is

longer of the treatment works, and at the level of performance for which the treatment works were constructed. The term includes replacement.

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

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

**REPLACEMENT COSTS.** Expenditures for replacement.

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

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

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

**SHALL.** The term is mandatory.

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

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

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

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

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

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

- A. The City Clerk Administrator shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of those costs as requested. The City Council shall determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with Subsection 51.113(B). The City shall thereafter, but not later than the end of the year, reassess and as necessary revise the Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.
- B. In accordance with Federal and State requirements, each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to operation, maintenance and replacement.
- C. In accordance with Federal and State requirements, the City Clerk Administrator shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.
- D. Bills for sewer service charges shall be rendered on a monthly, bi-monthly or quarterly basis as designated by Council, succeeding the period for which the service was rendered and shall be due ten days from the date of rendering. Any bill not paid in full 30 days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed at 10% of the original bill and

shall be increased the same 10% for every month the bill is outstanding. Disconnection of services for late payment shall follow the procedures established in the Chapter.

- E. The owner of the premises shall be liable to pay for the service to their premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefore to the City.
- F. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger of the wastes, at no expense to the City.

**Subsection 51.99 Violations and Penalties:**

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

*Chapter VII: Traffic Code*

**CHAPTER VII:  
TRAFFIC CODE**

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## ***GENERAL PROVISIONS***

### **Subsection 70.01 State Highway Traffic Regulations Adopted by Reference:**

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

### **Subsection 70.02 Trucks Prohibited on Certain Streets:**

- A. As authorized by M.S. § 169.87, as it may be amended from time to time, the City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The Chief of Police shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.

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- B. The weight restrictions established in division (A) shall not apply to city or emergency vehicles, public school buses, garbage and refuse trucks making regular collections and are under contract with the city, recycling trucks used exclusively for collection of recycling materials pursuant to a city mandate to provide curbside recycling, and implements of husbandry operated in compliance with M.S. § 169.801, as amended, and city, county and state road authority vehicles engaged in snow and ice removal or flood control operations on behalf of a state or local government, nor shall the weight restrictions in division (A) apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.
- C. Pursuant to Minnesota Statutes, as amended, the city may designate by resolution any exclusive city street or highway route or segment of a route to carry gross weights that exceed the limits in (A) provided that such a route may not be designed if it:
  - 1. Creates an undue hazard to traffic safety; or
  - 2. Is inconsistent with structural capacity of the route, including consideration of the volume of traffic expected to occur on the route after designation.
  - 3. The city may undesignate any route when continued designation is inconsistent with the provisions of this subdivision.
- D. Pursuant to Minnesota Statutes, as amended, the gross weight of any vehicle or combination of vehicles driven onto or over a bridge on any city street or highway shall not exceed the safe capacity of the bridge, as may be indicated by warning posted on the bridge or the approaches thereto.
- E. Pursuant to Minnesota Statutes, as amended, the City Clerk Administrator may issue a permit for heavier loads to travel on streets where otherwise restricted. The City Clerk Administrator may issue such a permit upon applicant provision of adequate insurance, execution of a written agreement to pay the city costs of any repairs the roadway, curbs, ditches and right-of-way necessitated by the permittee's damage to the roadway and to defend and indemnify the city against all claims related to the permittee's use of the roadway, and posting of a bond or other financial security in an amount adequate to cover city expenses, including but not limited to repair costs related to any damage to the road. Any person aggrieved by a permit denial may appeal the denial to the City Council within 30 days of such denial. Permits issued under this provision are good for five consecutive business days. No person, corporation or other entity may obtain more than three permits per year. The permit fee shall be set by the City's *Schedule of Fees*.

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

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

**Subsection 70.05 Turning Restrictions:**

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

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

**Subsection 70.07 Excessive Noise.**

- A. As used in this subsection:
  - 1. ***Light-Motor Vehicles*** means any automobile, van, motorcycle, motor-driven cycle, motorscooter, go cart, minibike, trail bike, neighborhood electric vehicle, golf cart, mini truck, all terrain vehicle, truck with a gross vehicular weight of less than 10,000 pounds or low power vehicle.

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2. **Low Power Vehicle** for the purpose of this section means a vehicle with a gas, electric or battery powered engine that may achieve a maximum vehicle speed of 35 miles per hour.
- B. It shall be unlawful for any person to operate, or cause to operate, or use a light-motor vehicle in a manner as to cause, or allow to be caused, excessive noise levels as a result of unreasonable rapid accelerations, deceleration, revving of engine, squealing of tires, honking of horns, or as a result of the operation of audio devices including but not limited to radios, phonograph, tape players, compact disc players or any other sound-amplifying device on or from the light-motor vehicle.
- C. No person shall operate, or cause to operate, or use a light-motor vehicle in violation of the noise standards contained in Mm. Rules parts 7030.1050 and 7030.1060, as it may be amended from time to time.
- D. No person shall operate, or cause to operate, or use a light-motor vehicle that discharges its exhaust other than through a muffler or other device that effectively prevents loud or explosive noises. No person shall operate, or cause to operate, or use a light-motor vehicle whose exhaust system has been modified, altered, or repaired in any way, including the use of a muffler cut-out or by-pass, that amplifies or otherwise increases noise above that emitted by the light-motor vehicle as originally equipped.
- E. The following are exempted from the provisions of this section:
  1. Sound emitted from sirens of authorized emergency vehicles;
  2. Burglar alarms on light-motor vehicles of the electronic signaling type which also transmit an audible signal to a receiver which can be carried by the owner or operator of the vehicle; and
  3. Celebrations on Halloween and other legal holidays and celebrations in connection with duly authorized parades.

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

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### **Subsection 70.09 Cruising Prohibited:**

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

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

### **Subsection 70.11 Motor Vehicle Noise:**

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

#### **ABNORMAL OR EXCESSIVE NOISE.**

1. Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;
2. Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or
3. Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through

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7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

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

1. It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.
2. It shall be unlawful for the operator of any truck to intentionally use an engine-retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.
3. Minnesota Statutes §§ 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.
4. Signs stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

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

**Subsection 70.13 Crossings for Seniors or Disabled Persons:** Pursuant to M.S. § 169.215, as it may be amended from time to time, the city may designate a crossing for senior citizens or disabled persons on any exclusive city street in the vicinity of a senior citizen housing project, senior citizen nursing home, or

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residential care facility for disabled persons on the basis of an engineering and traffic investigation prescribed by the Commissioner and subject to the uniform specifications adopted by the Minnesota Commissioner of Transportation.

### **Subsection 70.99 Violations and Penalties:**

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

## ***PARADES***

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

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

**PARADE PERMIT.** A permit required by this subchapter.

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

### **Subsection 70.21 Permit Required:**

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

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### **Subsection 70.22 Application for Permit:**

- A. *Generally.* A person seeking issuance of a parade permit shall file an application with the City Clerk Administrator.
- B. *Filing period.* The application for a parade permit shall be filed not less than 72 hours but not more than 60 days before the date on which it is proposed to conduct the parade. Failure to file an application 72 hours in advance will not result in automatic denial of the permit; provided, that the applicant shows reasonable grounds why the application could not be filed 72 hours in advance.
- C. *Required information.* The application for a parade permit shall set forth the following information:
1. The name, address, and telephone number of the person seeking to conduct the parade;
  2. If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;
  3. The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
  4. The date when the parade is to be conducted;
  5. The route to be traveled, the starting point, and the termination point;
  6. The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
  7. The hours when the parade will start and terminate;
  8. A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed;
  9. The location by street of any assembly area for the parade;
  10. The time at which units of the parade will begin to assemble at any assembly area or areas;



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11. The interval of space to be maintained between units of the parade;
  12. If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf;
  13. Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.
- D. There shall be paid at the time of filing an application for a parade permit a fee in an amount as established in the City's Schedule of Fees pursuant to Subsection 30.11 of this Code, as it may be amended from time to time. In addition, the applicant must provide proof of a valid insurance policy in the amount of \$500,000 for all claims arising from the same event, which names and agrees to defend and indemnify the City from any and all claims arising from the parade.

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

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

**Subsection 70.24 Notice of Rejection of Permit Application:** If the City Clerk Administrator disapproves the application, he or she shall mail to the applicant within the three regular business days after the date on

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which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.

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

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

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

**Subsection 70.28 Contents of Permit:**

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

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

### **Subsection 70.30 Public Conduct During Parades:**

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

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

### **Subsection 70.99 Violations and Penalties:**

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

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### **Section 71: Parking Regulations**

#### *Section Contents*

71.01	No Parking Where Posted
71.02	Limited Parking
71.03	Other Parking Restrictions
71.04	Snow Season Parking
71.05	Declaration of Snow Emergency; Parking Prohibited
71.06	Parking Certain Semi-Trailers or Tractors on Public Streets Prohibited
71.07	Overnight Parking
71.08	Repairing of Vehicles
71.09	Prohibiting Parking Areas in Front Yards in Residential Zones
71.10	Parking and Storage of Certain Vehicles
71.11	Impoundment
71.12	Prima Facie Violation
71.99	Violations and Penalties

#### **Subsection 71.01 No Parking Where Posted:**

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

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

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**Subsection 71.03 Other Parking Restrictions:** The City Council may by resolution order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

### **Subsection 71.04 Snow Season Parking:**

- A. Restrictions. In order to facilitate snow removal from the public streets and alleys of the City of Pennock, from December 1 through April 1 of each year, no vehicles shall be parked on any public street or alley in said city between the hours of 2:00 a.m. and 8:00 a.m.
- B. Enforcement. If any vehicle is parked, abandoned, or left standing in violation of the provisions hereof, the same may be summarily removed without notice to the owner at the direction of the city through its officers, agents and employees. Such summary removal shall be to a place designated by the city and such removed vehicles shall be stored at such designated place until released to the owner or his/her agent upon the following conditions: the owner, or his/her agent shall first pay all costs and expenses incident to the removal, towing and storage of such vehicle, said costs and expenses to be paid to the City Clerk Administrator, his/her agent, or any other person or firm authorized by the council to receive same. Costs and expenses as herein stated shall mean such expenses as are actually incurred if said removal, towing and storage is performed by someone for hire, or the reasonable cost of said work if same is performed by city employee, as determined from time to time by the city council. Amounts paid by the owner under this section for release of a vehicle shall not be deemed to be a Penalty or a fine.
- C. Penalty. Violation of this section shall be considered a petty misdemeanor.

### **Subsection 71.05 Declaration of Snow Emergency; Parking Prohibited:**

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

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- B. Notice of the declaration of a snow emergency shall be given by notifying the local news media; however, the notification shall be a service aid only and not a duty on the part of the officials.
- C. During a declared snow emergency, or after two inches or more of snow have accumulated, no motor vehicle shall be left parked on any street or public way in the City until the declared emergency is canceled or, if no emergency is declared, until the street is cleared on both sides of accumulated snow.
- D. During a declared snow emergency, any Law Enforcement Officer or City appointed parking enforcement officer, appointed pursuant to M.S. § 169.041, Subd. 2, who finds a motor vehicle in violation of this section shall attempt to contact the owner of the motor vehicle and require the owner to immediately move the motor vehicle so as not to be in violation of this section. If the owner does not immediately remove the motor vehicle or the owner cannot be located, the Law Enforcement Officer or City appointed parking enforcement officer, appointed pursuant to M.S. § 169.041, Subd. 2, is authorized to have the motor vehicle removed at the owner's expense.

**Subsection 71.06 Parking Certain Semi-Trailers or Tractors on Public Streets Prohibited:** No person shall park a semi-tractor or trailer, or any truck rated with a gross vehicle weight in excess of 10,000 pounds, in any area of the City zoned for residential use or other area designated by City Council resolution except when the vehicle is parked in a completely enclosed garage.

**Subsection 71.07 Overnight Parking:** The following vehicles shall not be allowed to park on City streets overnight: repair, delivery, rented vehicles with commercial plates and refuse and recycling haulers or any other vehicle not registered as a passenger vehicle.

**Subsection 71.08 Repairing of Vehicles:** Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on City streets; provided, that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and shall not be permitted on any City street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to City streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the City streets.

**Subsection 71.09 Prohibiting Parking Areas in Front Yards in Residential Zones:**

- A. The construction, operation or maintaining a parking area, either paved or unpaved, in the front yard of any lot is prohibited in any area zoned for residential use. For the purpose of this section, front yard

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shall mean and include that area between the sidewalk, or street line in the event there is no sidewalk, and the front line of the principal building, extending in both directions to the side lot lines.

- B. Use of that portion of a vacant lot within 30 feet of the sidewalk lines for parking in an area zoned for residential use is prohibited.
- C. Driveways in any area zoned for residential use shall not exceed 25% of the width at the front or side lot line. Where more than one driveway is desired or required, they shall be at least 50 feet apart.
- D. The front part of any lot shall not be used for the parking of an automobile, truck, trailer, tractor, recreational vehicle, camper, travel trailer, camper top, tent, wagon, boat, boat trailer, storage area or motor home.
- E. No person, being the owner or having control of any building, shall violate or fail to conform to any provision of this section, or fail to obey any lawful order of an officer charged with its enforcement. Each and every day on which any person continues to violate the provisions of this section, after having been notified of the violation, shall constitute a separate offense. This conviction shall not relieve any person from thereafter complying with the provisions of this section, and shall be sufficient cause to refuse further building or land use permits to the offender until a time as the orders have been complied with.

**Subsection 71.10 Parking and Storage of Certain Vehicles:** Automobile vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property, other than in completely enclosed buildings. No more than three (3) currently licensed automobiles shall be allowed to permanently park unenclosed on any residentially zoned property, without first obtaining a permit and paying a fee as established by the City's Schedule of Fees adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time.

**Subsection 71.11 Impoundment:** Any Law Enforcement Officer or city appointed parking enforcement officer, appointed pursuant to M.S. § 169.041, Subd.2, may order the removal of a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal, street improvements or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this chapter.

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**Subsection 71.12 Prima Facie Violations:** The presence of any motor vehicle on any street when standing or parked in violation of this chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

### **Subsection 71.99 Violations and Penalties:**

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



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### **Section 72: Truck Routes**

#### *Section Contents*

72.01	Definitions
72.02	Truck Travel Restricted
72.03	Streets Designated for Truck Use
72.04	Enforcement
72.99	Violations and Penalties

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

- A. **CITY.** Is the City of Pennock, Minnesota.
- B. **DEVIATING TRUCK.** Is a truck which leaves and departs from a street designated to be used by truck traffic.
- C. **PERSON.** Is any person, firm, partnership, association, corporation, company or organization of any kind.
- D. **TRUCK.** Is any vehicle designed or operated for the transportation of property and whose total marked GVW weight, loaded or unloaded, exceeds 15,000 GVW pounds.
- E. **TRUCK ROUTE.** Is any street, as designated herein, over and along which trucks within the City must operate.

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

- A. The operation of trucks upon any street where necessary to the conduct of business only at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point; (this exemption does not include the parking or driving of trucks from or to the owner or operator’s home in a residential zoned area).

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- B. The operation of emergency vehicles upon any street in the City.
- C. The operation of trucks owned or operated by the City, public utilities, any contractor or material man, while engaged in the repair, maintenance, or construction of streets, street improvements or street utilities within the City.
- D. The operation of trucks upon any officially established detour in any case where such truck could be lawfully operated on the street for which such detour is established.

**Subsection 72.03 Streets Designated for Truck Use:** The following streets or truck routes are hereby established or designated within the City:

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

**Subsection 72.04 Enforcement:**

- A. The City Clerk Administrator shall keep and maintain accurate maps setting out the truck routes or streets upon which truck traffic is permitted and such maps shall be available to the public.
- B. The City Clerk Administrator shall cause all truck routes and streets upon which truck traffic is permitted to be clearly sign-posted.
- C. Any Law Enforcement Officer shall have the authority to require any person driving or in control of any truck not proceeding over a truck route or street upon which truck traffic is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether this ordinance has been complied with.
- D. In addition to the driver or operator, the owner of any truck being operated with his or her permission

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and consent shall be liable for any violation of the provisions of this Ordinance.

### **Subsection 72.99 Violations and Penalties:**

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

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### **Section 73: Snowmobiles**

#### *Section Contents*

73.01	Intent
73.02	Definitions
73.03	Application of Traffic Ordinances
73.04	Restrictions
73.05	Stopping and Yielding
73.06	Persons Under 18
73.07	Equipment
73.08	Unattended Snowmobiles
73.09	Emergency Operation Permitted
73.99	Violations and Penalties

**Subsection 73.01 Intent:** It is the intent of this chapter to supplement M.S. §§ 84.81 through 84.91, and M.S. Chapter 169, and Minn. rules parts 6100.5000 through 6100.6000, as amended from time to time, with respect to the operation of snowmobiles. These statutes and rules are incorporated herein by reference. This section is not intended to allow what the State statutes and rules prohibit, nor to prohibit what the state statutes and rules allow.

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

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

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

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

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

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

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

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

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

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

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

### **Subsection 73.04 Restrictions:**

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

1. On the roadway of any street, except the most right hand lane then available for traffic or as close as practicable to right hand curb or edge of the roadway, except when overtaking and passing another vehicle stopped in the lane or proceeding in the same direction, or in making a left turn. Snowmobiles may also be operated upon the outside slope of trunk, county-state aid and county highways where the highways are so configured within the corporate limits. The City Council may, pursuant to M.S. § 84.87, Subd. 3, as it may be amended from time to time, adopt a resolution designating certain city streets as available for snowmobile operation and prescribe such time and speed limits as are necessary.
2. On a public sidewalk provided for pedestrian travel.
3. On boulevards within any public right-of-way.
4. On private property of another without specific permission of the owner or person in control of the property.

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5. Upon any school grounds, except as permission is expressly obtained from responsible school authorities.
6. On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council, in which case the use shall be lawful, and all-terrain vehicles and snowmobiles may be driven in and out of those areas by the shortest route.
7. On streets as permitted by this chapter at a speed exceeding 10 miles per hour.
8. During the hours of 10:00 p.m. to 7:00 a.m., Sunday through Thursday, and 12:01 a.m. to 8:00 a.m. on other days closer than 100 feet from any residence. This provision is not intended to prohibit snowmobiles from operating on City streets during the hours specified herein.

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

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

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

**Subsection 73.06 Persons Under 18:**

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

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- B. It is unlawful for the owner of a snowmobile to permit the all-terrain vehicle or snowmobile to be operated contrary to the provision of this section.

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

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

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

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

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### **Subsection 73.99 Violations and Penalties:**

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



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### **Section 74: Recreational and Other Vehicles**

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#### **Subsection 74.01 Purpose and Intent:**

- A. The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the city.
- B. This chapter is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the Minnesota Statutes expressly allow.
- C. It is intended to ensure the public safety and prevent a public nuisance.

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

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

**RECREATIONAL MOTOR VEHICLE.** Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes including, but not limited to trail bike, off-highway motorcycle, as defined by M.S. § 84.787, Subd. 7, as it may be amended from time to time, or other all-terrain vehicle as defined by M.S. § 84.92, Subd. 8, as it may be amended from time to time,

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motorized go-carts, hovercraft or motor vehicle licensed for highway operation which is being used for off-road recreational purposes, but not including golf carts defined by Subsection 74.08, personal electric mobility devices defined by Subsection 74.09, motorized foot scooters defined by Subsection 74.10, neighborhood electric vehicles or medium speed electric vehicle as defined by Subsection 74.11, and mini-trucks defined by Subsection 74.08.

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

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

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- K. Within 150 yards of any public recreational area or gathering of people. This provision does not apply to the occasional use of recreational motor vehicles on private property for the purpose of loading or unloading it from a trailer or for mechanically checking it;
- L. Without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;
- M. Without a functioning stoplight if so equipped;
- N. Without a brake operational by either hand or foot;
- O. At a speed exceeding ten miles per hour on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter;
- P. *Helmet and seat belts required.*
  - 1. A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the Commissioner of Public Safety.
  - 2. A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein without wearing a seat belt when such seat belt has been provided by the manufacturer.
- Q. *All-terrain vehicles and passengers.*
  - 1. No person under 18 years of age shall operate a class 1 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a class 1 all-terrain vehicle carrying one passenger. For the purposes of this division a **CLASS 1 ALL-TERRAIN VEHICLE** means an all-terrain vehicle that has a total dry weight of less than 900 pounds.
  - 2. No person under 18 years of age shall operate a class 2 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a class 2 all-terrain vehicle while carrying a passenger, or up to the number of passengers for which the vehicle was designed, whichever is greater. For the purposes of this division a **CLASS 2 ALL-TERRAIN VEHICLE** means an all-terrain vehicle that has a total dry weight of 900 to 1,500 pounds.

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### **Subsection 74.04 Street Crossings:**

- A. No person under 12 years of age operating the vehicles regulated herein shall make a direct crossing of any street, highway or public right-of-way or operate a vehicle regulated herein on a public street, highway or road right-of-way or operate a vehicle regulated herein on public lands or waters, except that a person at least 10 years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.
- B. *Additional restrictions for all-terrain vehicles.* An all-terrain vehicle may make a direct crossing of a public road right-of-way provided:
  - 1. The crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;
  - 2. The vehicle is brought to a complete stop before crossing the shoulder of main-traveled way of the road;
  - 3. The driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;
  - 4. In crossing a divided road, the crossing is made only at an intersection of the road with another public road; and
  - 5. If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

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

### **Subsection 74.06 Minimum Equipment Requirements:**

- A. Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.
- B. Brakes shall be adequate to control the movement of and to stop and hold under any conditions of operation.

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- C. At least one clear lamp shall be attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility.

### **Subsection 74.07 Designation of Public Areas For Use:**

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

### **Subsection 74.08 Motorized Golf Carts and Mini Trucks:**

- A. No person shall operate a motorized golf cart or mini truck on streets, alleys, sidewalks or other public property without obtaining a permit as provided herein.
  - 1. Every application for a permit shall be made on a form supplied by the city and shall contain the following information:
    - a) The name and address of the applicant;
    - b) The nature of the applicant's physical handicap, if any;
    - c) Model name, make and year and number of the motorized golf cart or mini truck;

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- d) Current driver's license or reason for not having a current license; and
  - e) Other information as the city may require.
- 2. The annual permit fee shall be as set forth in the City's Schedule of Fees adopted pursuant to Subsection 30.11 of this code, as may be amended from time to time.
  - 3. Permits shall be granted for a period of one year and may be renewed annually January 1 to December 31.
- B. No permit shall be granted or renewed unless the following conditions are met:
- 1. The applicant must demonstrate that he or she currently holds or has held a valid Minnesota driver's license;
  - 2. The applicant may be required to submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart or mini truck on the roadways designated;
  - 3. The applicant must provide evidence of insurance in compliance with the provisions of Minnesota Statutes concerning insurance coverage for the golf cart or mini truck;
  - 4. The applicant has not had his or her driver's license revoked as the result of criminal proceedings.
- C. Motorized golf carts and mini trucks are permitted to operate only on city streets, not state or federal highways, except to cross at designated intersections.
- D. Motorized golf carts or mini trucks may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.
- E. Motorized golf carts or mini trucks shall display the slow-moving vehicle emblem provided for in M.S. § 169.522, as it may be amended from time to time, when operated on designated roadways.
- F. Motorized golf carts or mini trucks shall be equipped with a wing-style rear view mirror to provide the driver with adequate vision from behind.
- G. The operator of a motorized golf cart or mini truck may cross any street or highway intersecting a designated roadway.

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- H. Every person operating a motorized golf cart or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Ch. 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts or mini trucks and except as otherwise specifically provided in M.S. § 169.045(7), as it may be amended from time to time.
- I. The City Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this section or M.S. Ch. 169, as it may be amended from time to time, or if there is evidence that the permit holder cannot safely operate the motorized golf cart or mini truck on the designated roadways.
- J. The number of occupants in the golf cart or mini truck may not exceed the design occupant load.
- K. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

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

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

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

### **Subsection 74.09 Operation of Electric Personal Assistive Mobility Devices:**

- A. **ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE** means a self-balancing device with two non-tandem wheels, designed to transport not more than one person, and operated by an electric propulsion system that limits the maximum speed of the device to 15 miles per hour.
- B. Except as otherwise provided by law, a person operating an electric personal assistive mobility device has the rights and responsibilities of a pedestrian.
- C. *Operation.*
  1. An electric personal assistive mobility device may be operated on a bicycle path.
  2. No person may operate an electric personal assistive mobility device on a roadway, sidewalk, or bicycle path at a rate of speed that is not reasonable and prudent under the conditions. Every person operating an electric personal assistive mobility device on a roadway, sidewalk, or bicycle path is responsible for becoming and remaining aware of the actual and potential hazards then existing on the roadway or sidewalk and must use due care in operating the device.
  3. An electric personal assistive mobility device may be operated on a roadway only;



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- a) While making a direct crossing of a roadway in a marked or unmarked crosswalk;
  - b) Where no sidewalk is available;
  - c) Where a sidewalk is so obstructed as to prevent safe use;
  - d) When so directed by a traffic control device or by a peace officer; or
  - e) Temporarily in order to gain access to a motor vehicle;
- 4. An electric personal assistive mobility device may not be operated at any time on a roadway with a speed limit of more than 35 miles per hour except to make a direct crossing of the roadway in a marked crosswalk;
  - 5. As provided in division (7) below by Council resolution.
  - 6. An electric personal assistive mobility device may not be operated at any time while carrying more than one person.
  - 7. A person operating an electric personal assistive mobility device on a sidewalk must yield the right-of-way to pedestrians at all times. A person operating an electric personal assistive mobility device on a bicycle path must yield the right-of-way to bicycles at all times.
  - 8. An electric personal assistive mobility device may not be operated unless the device bears reflectorized material on the front, back, and wheels, visible at night from 600 feet when illuminated by the lower beams of headlamps of a motor vehicle.
  - 9. *Designated exclusive city streets.* The City Council may, by resolution, designate exclusive city streets within its jurisdiction where the operation of electric personal assistive mobility devices is permissible, provided that no street so designated has a speed limit of more than 35 miles per hour.

### **Subsection 74.10 Motorized Foot Scooters:**

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

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electric personal assistive mobility device, a motorized bicycle, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

- B. Operation of a motorized foot scooter on city bicycle paths, bicycle lanes, bicycle trails, or bikeways is prohibited except as provided in division (C) below.
- C. The City Council may by resolution designate specific bicycle paths, bicycle lanes, bicycle trails, or bikeways as available for use by motorized foot scooters.
- D. Every person operating a motorized foot scooter shall have all rights and duties applicable to the operator of a bicycle, except in respect to those provisions relating expressly to motorized foot scooters and in respect to those provisions of law that by their nature cannot reasonably be applied to motorized foot scooters.
- E. No person may operate a motorized foot scooter upon a sidewalk, except when necessary to enter or leave adjacent property. No person may operate a motorized foot scooter that is carrying any person other than the operator.
- F. No person under the age of 12 years may operate a motorized foot scooter.
- G. No person under the age of 18 years may operate a motorized foot scooter without wearing properly fitted and fastened protective headgear that complies with standards established by the Commissioner of Public Safety.
- H. A motorized foot scooter must be equipped with a headlight and a taillight that comply with standards established by the Commissioner of Public Safety if the vehicle is operated under conditions when vehicle lights are required by law.
- I. A person operating a motorized foot scooter on a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway, except in the following situations;
  - 1. When overtaking and passing another vehicle proceeding in the same direction;
  - 2. When preparing for a left turn, in which case the operator shall stop and dismount at the right-hand curb or right edge of the roadway, and shall complete the turn by crossing the roadway on foot, subject to restrictions placed by law on pedestrians; or
  - 3. When reasonably necessary to avoid impediments or conditions that make it unsafe to continue along the right-hand curb or edge, including, but not limited to, fixed or moving objects, vehicles,

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bicycles, pedestrians, animals, surface hazards, or narrow lanes.

### **Subsection 74.11 Neighborhood Electric Vehicles:**

#### *A. Definitions.*

1. **MEDIUM SPEED ELECTRIC VEHICLE** means an electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 miles per hour on a paved level surface, is fully enclosed and has at least one door for entry, has a wheelbase of 40 inches or greater and a wheel diameter of ten inches or greater, and except with respect to maximum speed, otherwise meets or exceeds regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.
2. **NEIGHBORHOOD ELECTRIC VEHICLE** means an electrically powered motor vehicle that has four wheels, and has a speed attainable in one mile of at least 20 miles per hour but not more than 25 miles per hour on a paved level surface.

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

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

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

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

### **Subsection 74.99 Violations and Penalties:**

Failure to comply with the provisions set forth herein or referred to shall be considered a misdemeanor unless otherwise stated in the Code and/or by state or federal law. The penalties and procedures associated

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with all violations are set forth in **Chapter 1 Code Provisions** under *Subsection 10.99 General Penalties* and the City's corresponding *Schedule of Fees*.

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### **Section 75: Bicycles, Roller Blades, Roller Skates, Roller Skis and Skateboards**

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##### *Bicycles*

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75.02	Traffic Laws Apply
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##### *Roller Blades, Roller Skates, Roller Skis and Skateboards*

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### ***BICYCLES***

**Subsection 75.01 Definitions:** For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

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

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

### **Subsection 75.03 Manner and Number Riding:**

- A. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.
- B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle, provided that the seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel, or in a seat attached to the bicycle operator.

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

### **Subsection 75.05 Where to Ride:**

- A. Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- B. Persons riding bicycles upon a street shall not ride more than two abreast except on paths or parts of streets set aside for the exclusive use of bicycles.

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

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

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### **Subsection 75.08 Lighting and Brake Equipment:**

- A. Every bicycle, when in use at night time, shall be equipped with, or its operator shall carry a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches on each side of the bicycle or its operator of white reflective material. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.
- B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

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

### **Subsection 75.99 Violations and Penalties:**

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

***ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS***

**Subsection 75.11 Definitions:** For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

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

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

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

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

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

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

**Subsection 75.12 Unlawful Acts:**

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

1. On any public sidewalk, street, or public parking lot within the Business District;
2. On private property of another without the express permission to do so by the owner or occupant of the property; or
3. In any careless, reckless, or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person.

B. It is unlawful for any person operating roller blades, roller skates, roller skis or a skateboard to attach the same, or the person of the operator, to any vehicle upon a street.



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- C. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall ride as close as possible to the right-hand curb or edge of the street.
- D. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall observe the same rules of the road as required of bicycles, pursuant to M.S. § 169.222, as amended.

**Subsection 75.13 Right-of-Way:** The operator of roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway, or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right-of-way to all vehicles approaching on the street.

**Subsection 75.14 Hours of Use:** It is unlawful for any person to use roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk, or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skis, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle. The reflective material shall be a minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

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

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

## **CHAPTER IX: GENERAL REGULATIONS**

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### **Section 90: Abandoned Property**

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### ***GENERAL PROVISIONS***

#### **Subsection 90.01 Disposition of Abandoned Property:**

- A. *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the City shall be disposed of as provided in this section which is adopted pursuant to Minnesota Statutes, as amended. Abandoned and junked vehicles shall be disposed of according to the procedures of Subsection 90.15, as amended.
- B. *Storage.* The department of the City acquiring possession of the property shall arrange for its storage. If City facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.
- C. *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the City any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.
- D. *Sale.* If the property remains unclaimed in the possession of the City for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk Administrator or his or her designee after two weeks published notice setting forth the time and place of the sale and the property to be sold.
- E. *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the City. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

#### **Subsection 90.99 Violations and Penalties:**

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

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### ***ABANDONED VEHICLES***

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

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

#### **ABANDONED VEHICLE.**

A. A motor vehicle, as defined in M.S. 169.01, as amended, that:

1. Has remained illegally:

- a. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or
- b. On private property for a period of time, as determined under Subsection 90.18(B), without the consent of the person in control of the property; and

2. Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

B. A classic car or pioneer car, as defined in M.S. 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.

C. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

D. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

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**DEPARTMENT.** The Minnesota Department of Public Safety.

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

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

**JUNK VEHICLE.** A vehicle that:

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

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

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

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

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

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

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

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

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

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

### **Subsection 90.18 Authority to Impound Vehicles:**

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

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

### **Subsection 90.19 Sale; Waiting Periods:**

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

### **Subsection 90.20 Notice of Taking and Sale:**

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

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transfer of title to and disposal or sale of the vehicle and contents pursuant to Subsection 90.23.

- B. *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.
- C. *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

### **Subsection 90.21 Right to Reclaim:**

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

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

- A. *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:
  - 1. 25 days storage for a vehicle described in Subsection 90.19(A); and



2. 55 days storage for a vehicle described in Subsection 90.19(B).

- B. *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under Subsection 90.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

**Subsection 90.23 Disposition by Impound Lot:**

A. *Auction or sale.*

1. If an abandoned or unauthorized vehicle and contents taken into custody by the City or any impound lot is not reclaimed under Subsection 90.21, it may be disposed of or sold at auction or sale when eligible pursuant to Subsection 90.20 and 90.21.
2. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

- B. *Unsold vehicles.* Abandoned or junk vehicles not sold by the City or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with Subsection 90.24.

- C. *Sale proceeds; public entities.* From the proceeds of a sale under this section by the City or public impound lot of an abandoned or unauthorized motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the City.

- D. *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

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

**Subsection 90.25 Contracts; Reimbursement by MPCA:**

- A. *MPCA review and approval.* If the City proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to Subsection 90.24, the MPCA may review the proposed contract before it is entered into by the City, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the City. Where a contract has been approved, the MPCA may reimburse the City for the costs incurred under the contract that have not been reimbursed under Subsection 90.23. Except as otherwise provided in Subsection 90.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. Subsection 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.
- B. *The City may perform work.* If the City utilizes its own equipment and personnel pursuant to its authority under Subsection 90.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the City may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under Subsection 90.23.
- C. *The City required to contract work.* The MPCA may demand that the City contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the City fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the City, may contract with any person duly licensed by the MPCA for the disposal.

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### **Subsection 90.99 Violations and Penalties:**

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

**Section 91: Animals**

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

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

- A. **DOMESTIC ANIMAS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
- B. **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the

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equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch, or stable.

**C. NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

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

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

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

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

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

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

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

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

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

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

### **Subsection 91.02 Dogs and Cats:**

- A. *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading Dogs or Cats Prohibited.
- B. *License required.*
  - 1. All dogs over the age of six months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by the City Clerk Administrator upon payment of the license fee as established by the Ordinance

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Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the State in which the dog is vaccinated.

2. It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk Administrator the license fee established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time.
  3. Upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk Administrator. A charge shall be made for each duplicate tag in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the City before the expiration of the license period.
  4. The licensing provisions of this division (B) shall not apply to dogs whose owners are non-residents temporarily within the City, nor to dogs brought into the City for the purpose of participating in any dog show, nor shall this provision apply to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.
  5. The funds received by the City Clerk Administrator from all dog licenses and metallic tags fees as established by the ***City's Schedule of Fees***, as amended from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.
- C. *Cats.* Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

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### ***D. Vaccination.***

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

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

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

### **Subsection 91.05 Impounding:**

- A. *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or law enforcement officer may impound any dog or other animal



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found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or law enforcement officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in Subsection 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

- B. *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.
- C. *Reclaiming.* For the purposes of this Section regular business day means a day during which the establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under Subsection 91.11 in which case it shall be kept for seven regular business days or the times specified in Subsection 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:
  - 1. Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this code, as that ordinance may be amended from time to time.

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2. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and
  3. If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.
- D. *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk Administrator. Penalty, see Subsection 91.99

### **Subsection 91.06 Kennels:**

- A. *Definition of kennel.* The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a kennel; except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a kennel.
- B. *Kennel as a nuisance.* Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City. Penalty, see Subsection 91.99

### **Subsection 91.07 Nuisances:**

- A. *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.
- B. *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

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- C. *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.
- D. *Other.* Any animals kept contrary to this section are subject to impoundment as provided in Subsection 91.05.

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

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

**Subsection 91.09 Animals Presenting a Danger to Health and Safety of City:** If, in the reasonable belief of any person or the Animal Control Officer or law enforcement officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under Subsection 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the City for the

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

### **Subsection 91.10 Diseased Animals:**

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

### **Subsection 91.11 Dangerous And Potentially Dangerous Dogs:**

- A. *Adoption by reference.* Except as otherwise provided in this section, the regulatory and procedural provisions of M.S. §§ 347.50 to 347.565 (commonly referred to as the “Dangerous Dog Regulations”) are adopted by reference.
- B. *Definitions.* Definitions in this section shall have the following meanings:
  - 1. **DANGEROUS DOG.** A dog that:
    - a. Has when unprovoked, inflicted substantial bodily harm on a human being on public or private property;
    - b. Has killed a domestic animal when unprovoked while off the owner’s property;

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- c. Has attacked one or more persons on two or more occasions; or
  - d. Has been found to be potentially dangerous and after the owner has notice of the same, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- 2. **DOG.** Both the male and female of the canine species, commonly accepted as domesticated household pets.
- 3. **GREAT BODILY HARM.** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- 4. **OWNER.** Any person or persons, firm, corporation, organization, department, or association owning, possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.
- 5. **MAINTENANCE COSTS.** Any costs incurred as a result of seizing an animal for impoundment, including, but not limited to, the capturing, impounding, keeping, treating, examining, securing, confining, feeding, destroying, boarding or maintaining seized animals, whether these services are provided by the city or the pound.
- 6. **POTENTIALLY DANGEROUS DOG.** A dog that:
  - a. Has when unprovoked, inflicted a bite on a human or domestic animal on public or private property;
  - b. Has when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the owner's property, in an apparent attitude of attack; or
  - c. Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- 7. **PROPER ENCLOSURE.** Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of

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the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- a. A minimum overall floor size of 32 square feet.
  - b. Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.
  - c. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches.
  - d. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self-closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.
8. **SUBSTANTIAL BODILY HARM.** Bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ or that causes a fracture of any bodily member.
9. **UNPROVOKED.** The condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

### *C. Declaration of dangerous or potentially dangerous dog.*

1. A law enforcement officer, community service officer, animal control officer or other authorized city employee may declare a dog to be dangerous or potentially dangerous when the officer has probable cause to believe that a dog is dangerous or potentially dangerous. The following factors will be considered in determining a dangerous or potentially dangerous dog:
  - a. Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog's offspring within the immediate vicinity of the dog from an unjustified attack or assault.
  - b. The size and strength of the dog, including jaw strength, and the animal's propensity to

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bite humans or other domestic animals.

- c. Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained or encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia or drugs used to prepare such dogs to fight with other animals.

- 2. Beginning six months after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided, the city may rescind the designation.

### ***3. Exceptions.***

- a. The provisions of this section do not apply to dogs used by law enforcement.
- b. Dogs may not be declared dangerous or potentially dangerous if the threat, injury, or danger was sustained by a person who was:
  - i. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - ii. Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or
  - iii. Committing or attempting to commit a crime.

- D. *License required.* The owner must annually license dangerous and potentially dangerous dogs with the city and must license a newly declared dangerous or potentially dangerous dog within 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal that may be requested, the owner must comply with the requirements of M.S. § 347.52 (a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration.

- 1. *Process for dangerous dogs.* The city will issue a license to the owner of a dangerous dog if the owner presents sufficient evidence that:
  - a. There is a proper enclosure;

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- b. Written proof that there is a surety bond by a surety company authorized to conduct business in Minnesota in the sum of at least \$300,000, payable to any person injured by a dangerous dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. Such surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the city is notified in writing by the surety company or the insurance company at least ten days prior to such cancellation;
  - c. The owner has paid the annual license fee for dangerous dogs as established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code.
  - d. The owner has had a microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense; and
  - e. The owner provides proof that the dog has been sterilized. If the owner does not sterilize the dog within 30 days, the city may seize the dog and sterilize it at the owner's expense.
2. *Process for potentially dangerous dogs.* The city will issue a license to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:
- a. There is a proper enclosure;
  - b. The owner has paid the annual license fee;
  - c. The owner has had a microchip identification implanted in the potentially dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense.
3. *Inspection.* A pre-license inspection of the premises to insure compliance with the city code is required. If the city issues a license to the owner of a dangerous or potentially dangerous dog, the city shall be allowed at any reasonable time to inspect the dog, the proper enclosure and all places where the animal is kept.
4. *Warning symbol.* The owner of a dangerous dog licensed under this section must post a sign with the uniform dangerous dog warning symbol on the property in order to inform children



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that there is a dangerous dog on the property. The sign will be provided by the city upon issuance of the license.

5. *Tags.* A dangerous dog licensed under this section must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the city upon issuance of the license.
  6. *License fee.* The city will charge the owner an annual license fee for a dangerous or potentially dangerous dog as established in the Ordinance to Establish Fees and Charges as it may be amended from time to time.
- E. *Properly restrained in proper enclosure or outside of proper enclosure.* While on the owner's property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- F. *Notification requirements to city.*
1. *Relocation or death.* The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Clerk Administrator in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside of the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.
  2. *Renter's obligations.* A person who owns or possess a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potentially dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.
  3. *Transfer of ownership into the city.* No dog that has been previously determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned or harbored

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in the city unless the dog's owner complies with the requirements of this section prior to bringing the dog into the city. Dogs in violation of this division are subject to impoundment and destruction.

G. *Seizure.* Animal control may immediately seize any dangerous or potentially dangerous dog if:

1. After 14 days after the owner has notice that the dog is declared dangerous or potentially dangerous, the dog is not validly licensed and no appeal has been filed;
2. After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required or such required insurance is cancelled;
3. The dog is not maintained in a proper enclosure;
4. The dog is outside the proper enclosure and not under proper restraint, as required by Subsection 91.11(E);
5. After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by Subsection 91.11(D)(1)(e);
6. The dog's microchip has been removed.

H. *Reclamation.* A dog seized under Subsection 91.11(G) may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to animal control that the requirements of this section have been met. A dog not reclaimed under this division within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of the date seized.

I. *Subsequent offenses: seizure.* If a person has been convicted of violating a provision of this section, and the person is charged with a subsequent violation relating to the same dog, the dog may be seized. If the owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the owner pay the maintenance costs. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of, used for research, or destroyed.

J. *Notice, hearings.*

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1. *Notice.* After a dog has been declared dangerous or potentially dangerous or has been seized for destruction, the city shall give notice by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:
  - a. A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place, and circumstances under which the dog was declared; and the telephone number and contact person where the dog is kept;
  - b. A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing;
  - c. A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of M.S. § 347.52, paragraphs (a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until such time as the hearing officer issues an opinion;
  - d. A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of M.S. § 347.51, 347.515, and 347.52;
  - e. A form to request a hearing; and
  - f. A statement that if the dog has been seized, all maintenance costs of the care, keeping, and disposition of the dog pending the outcome of the hearing are the responsibility of the owner, unless a court or hearing officer finds that the seizure or impoundment was not reasonably justified by law.
2. *Right to hearing.*
  - a. After a dog has been declared dangerous, potentially dangerous or has been seized for destruction, the owner may appeal in writing to the city within 14 days after notice of the declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing. The owner must pay a \$100 fee for an appeal hearing.
  - b. The appeal hearing will be held within 14 days of the request. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to

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conduct the hearing.

- c. If the declaration or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000, as well as all maintenance costs, will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision shall be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the city. The decision of the hearing officer is final.
- K. *Destruction of certain dogs.* The Sheriff's Office and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to Subsection 91.11(J) and upon a finding that:
- 1. The dog has habitually destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;
  - 2. The dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired, and the owner has failed to comply with the provisions of this section;
  - 3. It is determined that the dog is infected with rabies;
  - 4. The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;
  - 5. The dog inflicted multiple bites on a human on public or private property without provocation;
  - 6. The dog bit multiple human victims on public or private property in the same attack without provocation;
  - 7. The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or
  - 8. The dog poses a danger to the public's health, safety or welfare. In determining whether the dog poses a danger to the public's health, safety or welfare, the following factors may be considered:
    - a. The dog weighs more than 20 pounds;
    - b. The strength of the dog, including jaw strength;

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- c. The dog's tolerance for pain;
  - d. The dog's tendency to refuse to terminate an attack;
  - e. The dog's propensity to bite humans or other domestic animals;
  - f. The dog's potential for unpredictable behavior;
  - g. The dog's aggressiveness;
  - h. The likelihood that a bite by the dog will result in serious injury.
- L. *Concealing of dogs.* No person may harbor, hide or conceal a dog that the city has the authority to seize or that has been ordered into custody for destruction or other proper disposition.
- M. *Dog ownership prohibited.*
- 1. Except as provided below, a person shall not own a dog if the person has been:
    - a. Convicted of a third or subsequent violation of Subsection 91.11(D), (E) or (F) or similar ordinance in another jurisdiction, or M.S. §§ 347.51, 347.515 or 347.52;
    - b. Convicted of 2<sup>nd</sup> degree manslaughter due to negligent or intentional use of a dog under M.S. § 609.205 (4); or
    - c. Convicted of gross misdemeanor harm caused by a dog under M.S. § 609.226, Subd. 1.
  - 2. Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation, may be impounded until due process is completed, pursuant to Subsection 91.11(J).
  - 3. If any member of a household is prohibited from owning a dog in Subsection 91.11(M)(1) or (2), unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.
- N. *Dog ownership prohibition review.* Beginning three years after a conviction under Subsection

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91.11(M)(1) that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Sheriff's Office that the city review the prohibition. The city may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the city rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

### ***O. Penalties.***

1. Unless stated otherwise, any person who violates a provision of this section is guilty of a misdemeanor.
2. Any person who is convicted of a second or subsequent violation of any provision of Subsection 91.11(D), (E), or (F) is guilty of a gross misdemeanor.
3. Any person who violates Subsection 91.11(M), whether an owner or household member, is guilty of a gross misdemeanor.

### **Subsection 91.12 Dangerous Animals (Excluding Dogs):**

- A. *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to dogs as regulated by Subsection 91.11.
- B. *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.
- C. *Definitions.* For the purpose of this subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
  1. **DANGEROUS ANIMAL.** An animal which has:
    - a. Caused bodily injury or disfigurement to any person on public or private property;
    - b. Engaged in any attack on any person under circumstances which would indicate danger

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to personal safety;

- c. Exhibited unusually aggressive behavior, such as an attack on another animal;
- d. Bitten one or more persons on two or more occasions; or
- e. Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

### **2. POTENTIALLY DANGEROUS ANIMAL.** An animal which has:

- a. Bitten a human or a domestic animal on public or private property;
- b. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- c. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

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

- a. Have a minimum overall floor size of 32 square feet.
- b. Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 13-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.
- c. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

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- d. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.
- 4. **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.
- D. *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.
- E. *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:
  - 1. That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).
  - 2. That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).
- F. *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:
  - 1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
  - 2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- G. *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing



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before the City Council for a review of this determination.

1. If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.
  2. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk Administrator's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.
  3. No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.
- H. *Stopping an attack.* If any law enforcement officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.
- I. *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.
- J. *Dangerous animal requirements.*
1. *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

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- a. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Subsection 91.12(C)(3);
  - b. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property;
  - c. Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;
  - d. If the animal is outside the proper enclosure, the animal must be muzzled (if physically possible depending on the type of animal) and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the animal from biting any person or animal, but will not cause injury to the animal or interfere with its vision or respiration;
  - e. The animal shall have a microchip implant as provided by M.S. § 347.515, as it may be amended from time to time;
  - f. All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.
  - g. If the animal is a cat or ferret, it must be up to date with rabies vaccination.
2. *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.
  3. *Reclaiming animals.* A dangerous animal seized under Subsection 91.12(J)(2), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under Subsection 91.12(J)(1), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under Subsection 91.12(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.
- K. *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under Subsection 91.12 with the same animal, the animal must be seized by animal control. The

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

### **Subsection 91.13 Basic Care:**

- A. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.
- B. Dogs and cats. Dogs and cats must be provided the following basic care.
  - 1. *Food.* Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.
  - 2. *Water.* Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.
  - 3. *Transportation and shipment.* When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.
  - 4. *Shelter size.* A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by

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144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

5. *Exercise.* All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.
  6. *Group housing and breeding.* Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.
  7. *Temperature.* Confinement areas must be maintained at a temperature suitable for the animal involved.
  8. *Ventilation.* An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.
  9. *Lighting.* An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.
  10. *Confinement and exercise area surfaces.* Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.
  11. *Drainage.* Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.
  12. *Sanitation.* Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.
- C. *Birds, rodent other animals.* Basic care provided to pet and companion animal birds, rodents and other shall be consistent with M.S. § 346.40, § 346.41 and § 346.42, as those statutes may be amended from time to time.

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### ***D. Dogs and cats in motor vehicles.***

1. *Unattended dogs or cats.* A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety.
2. *Removal of dogs or cats.* A peace officer, as defined in M.S. § 626.84, as it may be amended from time to time, a humane agent, a dog warden, or a volunteer or professional member of a fire or rescue department of the city may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of (D)(1). A person removing a dog or a cat under this division shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

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

1. *Building specifications.* The shelter shall include a moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.
2. *Shade.* Shade from the direct rays of the sun, during the months of May to October shall be provided.
3. *Farm dogs.* In lieu of the requirements of (E)(1) and (E)(2), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

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

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

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

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

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

### **Subsection 91.19 Fighting Animals:**

- A. The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted herein by reference.
- B. No person shall:
  - 1. Promote, engage in, or be employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in M.S. § 346.36, Subd. 6, as it may be amended from time to time, against another of the same or a different kind;
  - 2. Receive money for the admission of a person to a place used, or about to be used, for that activity;
  - 3. Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

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4. Use, train, or possess a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.
5. Purchase a ticket of admission or otherwise gain admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal against another of the same or a different kind.

### **Subsection 91.20 Feeding Stray Cats and Dogs:**

#### ***A. Definitions.***

1. **FEED** or **FEEDING** means the placing of dog or cat food, or similar food products or consumable materials attractive to dogs and cats, which may result in dogs and cats congregating thereon on a regular basis, placed on the ground, in an obviously intended feeder, or in a feeder at a height accessible to cats and dogs.
2. **STRAY** means an unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.

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

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

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

### **Subsection 91.99 Penalties and Violations:**

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

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- B. *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in Subsection 10.99.
- C. *Petty misdemeanor.* Violations of Subsections 91.02, 91.07, 91.13 and 91.14 are petty misdemeanors punishable as provided in Subsection 10.99.
- D. Failure to comply with the provisions set forth herein or referred to shall be considered a misdemeanor unless otherwise stated in the Code and/or by state or federal law. The penalties and procedures associated with all violations are set forth in **Chapter 1 Code Provisions** under *Subsection 10.99 General Penalties* and the City's corresponding *Schedule of Fees*.



**Section 92: Health and Safety; Nuisances**

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### ***GENERAL PROVISIONS***

#### **Subsection 92.01 Assessable Current Services:**

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

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

- B. Snow, ice, dirt and rubbish.

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

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- C. *Public health and safety hazards.* When the City removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk Administrator.
- D. *Installation and repair of water service lines.* Whenever the City installs or repairs water service lines serving private property under Chapter 51 of this Code, the City Clerk Administrator shall keep a record of the total cost of the installation or repair against the property.
- E. *Repair of sidewalks and alleys.*
1. *Duty of owner.* The owner of any property within the City abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk Administrator.
  2. *Inspections; notice.* The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the City will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.
  3. *Repair by City.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk Administrator shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. The City Clerk Administrator shall keep a record of the total cost of the repair attributable to each lot or parcel of property.
- F. *Personal liability.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk Administrator, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk Administrator. If the bill remains unpaid, after notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk Administrator may list the total unpaid charges along with all other

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charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under the statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

- G. *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this Code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. 514.67, as it may be amended from time to time.
- H. *Assessment.* On or before September 1 of each year, the City Clerk Administrator shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

### **Subsection 92.02 Tree Diseases and Shade Tree Pest Control:**

- A. *Declaration of policy.* The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01 and 89.51 through 89.64, as those sections may be amended from time to time, the provisions of this section are adopted to attempt to control and prevent the spread of these shade tree pests.
- B. *Jurisdiction.* The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs and other plantings.

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- C. *Declaration of a shade tree pest.* The Council may declare any vertebrate or invertebrate animal, plant pathogen, or plant threatening to cause significant damage to a shade tree or community forest in the community, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary timelines for action.
- D. *Public nuisances declared.* A shade tree pest declared by Council occurring within a declared control zone is a public nuisance.
- E. *Shade tree pest nuisances are unlawful.* It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.
- F. *Definition of control areas.* Upon declaring a shade tree pest, the Council may define one or more locations within the geographic boundaries of the city to be within a shade tree pest control area provided such locations are characterized by biologic, composition, environmental and size factors favorable to successful application of the control measures prescribed by Council.
- G. *Tree Inspector.* The Council may appoint a Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the duties incident to such a program adopted by the Council. The term **TREE INSPECTOR** includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.
- H. *Abatement of shade tree pest nuisances.*
  - 1. In abating a nuisance declared by ordinance under divisions (B) and (C), the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to divisions (C) and (K) and (O).
  - 2. In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway in a rural area within the city's jurisdiction, M.S. § 160.22, as it may be amended from time to time, shall be complied with as necessary.
- I. *Reporting discovery of shade tree pest.* Any owner or occupier of land or any person engaged in

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tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest as defined under division (C) shall report the same to the city.

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

K. Inspection and application of control measures.

1. The Tree Inspector is authorized to cause premises and places within the city to be inspected to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector shall have the power to take all reasonable precautions to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the Minnesota Department of Agriculture or the Commissioner of the Minnesota Department of Natural Resources.
2. Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.
3. No person, firm, or corporation shall interfere with the Tree Inspector acting under his authority while engaged in activities authorized by this section.

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

1. The Tree Inspector will notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice must be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Clerk Administrator.
2. The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice

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

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

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

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

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

1. If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following (L) or (M). The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.
2. *Immediate Abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

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

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1. The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk Administrator or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk Administrator.
2. After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk Administrator may list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

### ***Q. Penalty.***

1. Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.
2. Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
3. The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.
4. In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this section, the City Council or any official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

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

1. *Oak Wilt.* Oak Wilt is declared a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three



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inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum*. Control measures prescribed for abating Oak Wilt Disease are:

- a. *Installation of a root graft barrier.* A root graft barrier can be ordered installed to prevent the underground spread of Oak Wilt Disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with Oak Wilt Disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree.
- b. *Removal and disposal of trees on property zoned for residential and commercial use.* On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum*. After, and in no case before the installation of the root graft barrier and no later than May 1 of the year following infection all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked. If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.
- c. *Removal and disposal of trees on all other property.* On all other property the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.
- d. *Wood disposal.* All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying or debarking or chipping or sawing into wane-free lumber or by splitting into firewood, stacking the firewood and immediately covering the woodpile with unbroken 4-mil or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately

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used in the landscape.

- e. The control area for Oak Wilt Disease is defined as all lands within the boundaries of the city.
2. *Emerald Ash Borer.* Emerald Ash Borer is declared a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub or worm-like and live underneath the bark of ash trees.
  - a. Control measures prescribed for abating Emerald Ash Borer are those provided in the document, *Minnesota Emerald Ash Borer Science Advisory Group Recommendations on Preparing for Emerald Ash Borer in Minnesota*.
  - b. *Definition of control areas.* The control area for Emerald Ash Borer is defined as all lands within the boundaries of the city.
3. *Dutch Elm Disease.* Dutch Elm Disease is declared a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*.
  - a. Control measures prescribed for abating Dutch Elm Disease are:
    - i. *Use of fungicide.* Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.
    - ii. *Removal and disposal of trees.* Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or sawlogs if it is de-barked or covered from April 15 to October 15 with 4mm plastic. The edges of the cover must be buried or sealed to the ground.

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

### ***NUISANCES***

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

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

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

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;
- D. Carcasses of animals not buried or destroyed within 24 hours after death;
- E. Accumulations of manure, refuse or other debris;
- F. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

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- H. All noxious weeds and other rank growths of vegetation upon public or private property;
- I. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- J. All public exposure of people having a contagious disease; and
- K. Any offensive trade or business as defined by statute not operating under local license.
- L. Any unnecessary and annoying vibrations.

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

- A. All gambling devices, slot machines and punch boards, except as otherwise authorized by Federal, State or local law;
- B. Betting, bookmaking and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- D. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section **INTOXICATING LIQUOR** shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than ½ % alcohol by volume;
- E. Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose. Penalty, see Subsection 10.99

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

- A. All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;

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- B. All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection.
- C. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- D. All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this Code.
- E. The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable State laws and regulations.
- F. The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.
- G. The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.
- H. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this Code or other applicable law;
- I. Radio aerials or television antennae erected or maintained in a dangerous manner;
- J. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- K. All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- L. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

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- M. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- N. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- O. Waste water cast upon or permitted to flow upon streets or other public properties;
- P. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from such accumulations, or in a manner which annoys, injures or endangers the comfort or repose of any considerable number of members of the public. Boats, unoccupied trailers and recreational vehicles less than 25 feet in length are permissible if stored in the rear of sideyard or driveway. Storage of boats, unoccupied trailers and recreational vehicles, over 25 feet in length, or the storage of more than one commercial or industrial vehicle or article of equipment is prohibited unless a special use permit is issued by the City Clerk Administrator for such use. The existing uses shall comply with this provision within three (3) months following enactment of this ordinance;
- Q. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- R. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash, grass, leaves or other materials;
- S. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- T. The depositing of garbage, grass, leaves or other refuse on a public right-of-way or on adjacent private property;
- U. Brawling or fighting;
- V. Disturbance of an assembly or meeting, not unlawful in its character;
- W. Offensive, obscene, or abusive language or in a boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.

- X. All other conditions or things which are likely to cause injury to the person or property of anyone. Penalty, see Subsection 10.99.

**Subsection 92.19 Nuisance Parking and Storage:**

- A. *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.
- B. *Unlawful parking and storage.*
1. A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.
  2. A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
  3. A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
    - a. No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.
    - b. Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.

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

### **Subsection 92.20 Inoperable Motor Vehicles:**

- A. It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011, Subd. 3, as it may be amended from time to time.
- B. This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.
- C. Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

### **Subsection 92.21 Building Maintenance and Appearance:**

- A. *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.
- B. *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
  - 1. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
  - 2. Every exterior surface that has had a surface finish such as paint applied must be maintained



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to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

- a. Any one wall or other flat surface; or
  - b. All door and window moldings, eaves, gutters, and similar projections on any one side or surface.
3. No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
  4. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
  5. Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.
  6. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
  7. Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.
  8. Foundations must be structurally sound and in good repair.

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

### **Subsection 92.23 Abatement:**

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

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1. *Notice of violation.* Written notice of violation shall be served by a peace officer on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
  2. *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.
  3. *Notice of City Council order.* Except for those cases determined by the City to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.
  4. *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.
- B. *Procedure.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the City, the officer or person designated may notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the City may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.
- C. *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably

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endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

- D. *Immediate abatement.* Nothing in this section shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

### **Subsection 92.24 Recovery of Cost:**

- A. *Personal liability.* The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk Administrator or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk Administrator.
- B. *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

## ***WEEDS***

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

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

### **Subsection 92.37 Definitions; Exclusions:**

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

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

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

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

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

1. Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip.
2. Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;
3. Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;
4. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches.

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5. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.
  6. The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.
  7. Any other weed designated by M.S. § 18.77, Subd. 8, Minn. Rules 1505.0730, 1505.0732 or 1505.0750, as they be amended from time to time, as noxious.
- B. In no event shall cultivated plants or crops include plants which have been defined by State statute or administrative rule as being noxious or detrimental plants.

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

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

**Subsection 92.39 Filing Complaint:** Any person, including the City, who believes there is property located within the corporate limits of the City which has growing plant matter in violation of this subsection shall make a written complaint signed, dated and filed with the City Clerk Administrator. If the City makes the complaint, an employee, officer or Council Member of the City shall file the complaint in all respects as set out above.

### **Subsection 92.40 Notice of Violations:**

- A. Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a

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probable belief that this subchapter has been violated, shall forward written notification in the form of a Destruction Order to the property owner or the person occupying the property as that information is contained within the records of the City Clerk Administrator or any other City agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

- B. 1. All notices are to be in writing and all filings are to be with the City Clerk Administrator.
- 2. Certified mailing to the City Clerk Administrator or others is deemed filed on the date of posting to the United States Postal Service.

### **Subsection 92.41 Appeals:**

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

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

### **Subsection 92.43 Liability:**

- A. The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subsection.
- B. The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts

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incurred by the City. If the City uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

- C. All sums payable by the property owner are to be paid to the City Clerk Administrator and to be deposited in a general fund as compensation for expenses and costs incurred by the City.
- D. All sums payable by the property owner may be collected as a special assessment as provided by M.S. 429. 101, as it may be amended from time to time.

### ***OPEN BURNING***

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

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

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

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

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

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

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

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

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

### **Subsection 92.61 Prohibited Materials:**

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



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

**Subsection 92.63 Purposes Allowed for Open Burning:**

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

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

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

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

**Subsection 92.64 Permit Application for Open Burning; Permit Fees:**

A. Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief for reviewing and processing those applications.

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- B. An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in the Ordinance Establishing Fees and Charges, authorized by Subsection 30.11, as it may be amended from time to time.

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

**Subsection 92.66 Permit Holder Responsibility:**

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

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

**Subsection 92.68 Denial of Open Burning Permit:** If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical

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alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, he may deny the application for the open burn permit.

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

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

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

#### **A. *Definitions.***

1. **EXTERNAL SOLID FUEL-FIRED HEATING DEVICE.** A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.
2. **PERSON.** An individual, partnership, corporation, company or other association.
3. **STACKS OR CHIMNEYS.** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

#### **B. *Requirements for operation.***

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

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2. No person may install, use or operate an external solid fuel fired heating device on a lot less than four acres in size.
3. All stacks or chimneys must be so constructed to withstand high winds or other related elements and in accordance to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 25 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.
4. All external solid fuel-fired heating devices must be setback a minimum of 50 feet from all property lines.
5. All external solid fuel-fired heating devices must be setback a minimum of ten feet from any principal or accessory structure.

### ***C. Fuels.***

1. Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.
2. The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.

### **Subsection 92.99 Violations and Penalties:**

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

**Section 93: Swimming Pools**

***Section Contents***

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Subsection 93.02	Permits Required
Subsection 93.03	Plans and Specifications
Subsection 93.04	Fence Requirements
Subsection 93.05	Health and Safety
Subsection 93.06	Inspections
Subsection 93.07	Operation Regulations
Subsection 93.08	Denial, Suspension or Revocation of Permits
Subsection 93.99	Violations and Penalties

**Subsection 93.01 Definitions:**

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

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

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

**Subsection 93.02 Permits Required:**

- A. No permit to construct, alter, remodel or license to operate shall be granted for a public swimming pool unless the pool conforms with the regulations adopted by Subsection 93.03 of this Section, and the Minnesota Department of Health Regulations, as such regulations may be from time to time amended, supplemented or replaced.
- B. No persons shall operate or maintain a public swimming pool unless they have obtained a permit

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to operate such pool from the City. Such permits shall be obtained by January 1 and shall be valid for one year, unless otherwise revoked for cause. Only persons who comply with this Section shall be entitled to receive and retain such a permit. Such permits are not transferable.

- C. All persons required by this Section to obtain an annual permit to conduct, operate and maintain a public swimming pool shall make application to the City in writing and shall pay an annual license fee per pool set forth in the City's Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11, as it may be amended from time to time.

### **Subsection 93.03 Plans and Specifications:**

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

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1. Plan and sectional views with all necessary dimensions of both the pool and surrounding area.
2. A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system.
3. The specifications shall contain details on all treatment equipment, including catalog identification of pumps, chlorinators and related equipment.

### **Subsection 93.04 Fence Requirements:**

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

### **Subsection 93.05 Health and Safety:**

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

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- E. Not more than the maximum design bather load shall be permitted in the swimming pool at any one time.

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

### **Subsection 93.07 Operation Regulations:**

- A. The operator of each pool shall keep a daily record of information regarding operation, including disinfectant residuals, pH, maintenance procedures, recirculation, together with other data as may be required by the City. This data shall be kept on file by the operator and submitted periodically to the City in accordance with any requirements the City may impose.
- B. The pumps, filter, disinfectant and chemical feeders, and related appurtenances, shall be kept in operation at all times the swimming pool is in use and for such additional purposes as needed to keep the pool water clear and of satisfactory bacterial quality. Continuous operation of the recirculation system shall be maintained in swimming pools having a capacity of two hundred thousand (200,000) gallons or more during seasons of regular use.

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

### **Subsection 93.99 Violations and Penalties:**

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



# CHAPTER XI: GENERAL OFFENSES

## *Chapter Contents*

### Section 110: General Offenses

## Section 110: General Offenses

### *Section Contents*

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Subsection 110.99	Violations and Penalties

### **Subsection 110.01 Damage to Property; Graffiti:**

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

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

**OWNER.** Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the

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beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the City.

### *B. Conduct prohibited.*

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

### *C. Removal by owner.*

1. *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.
2. *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the City that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

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3. *List of contractors and cleaning materials.* The City may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the City does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the City expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising there from.

### *D. Removal by the City.*

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

### *E. Penalty.*

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

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2. Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in Subsection 110.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

### ***F. Compliance by the City.***

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

### **Subsection 110.02 Discharging Firearms:**

- A. *Shooting upon, over or near a cemetery.* No person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.
- B. *Hunting near a City park.* No person shall hunt, shoot, or kill game within 2 mile of a City park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.
- C. *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution.
- D. *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

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- E. *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper Federal, State or local authorities to discharge a firearm in a manner contrary to the provisions of this section.
- F. If any of the above provisions are found to be in conflict with M.S. 624.717, as it may be amended from time to time, the provisions of that statute shall prevail. Penalty, see Subsection 110.99.

### **Subsection 110.03 Curfew for Minors:**

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

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

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

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

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

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

### *C. Hours.*

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

D. *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

E. *Exceptions.* The provisions of this section shall not apply in the following situations:

1. To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;
2. To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

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3. To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.
  4. To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the City, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor.
  5. To a minor who is passing through the City in the course of interstate travel during the hours of curfew.
  6. To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion.
  7. To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the City's designated law enforcement provider about the minor's presence.
  8. To a minor who is married or has been married, or is otherwise legally emancipated.
- F. *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.
- G. *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section apply.
- H. *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the City's designated law enforcement provider

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that a minor was present on the premises of the establishment during curfew hours and refused to leave. Penalty, see Subsection 110.99.

### **Subsection 110.04 Social Host Ordinance: Hosting Event Where Alcohol is Present and Possessed by Persons Under 21:**

#### **A. Purpose and findings.**

The Pennock City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Pennock City Council finds that:

1. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one (21) are harmful to those persons and constitute a potential threat to public health and public safety requiring prevention or abatement.
2. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
3. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
4. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
5. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
6. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

#### **B. Authority.** This article is enacted pursuant to Minnesota Statutes, as amended.

#### **C. Definitions.** For purposes of this article, the following terms have the following meanings:



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**ALCOHOL.** "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**ALCOHOLIC BEVERAGE.** "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half (½) of one (1) percent or more of alcohol by volume and which is used for beverage purposes either alone or when diluted, mixed, or combined with other substances.

**EVENT or GATHERING.** "Event or gathering" means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.

**HOST.** "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a **gathering** or event.

**PARENT.** "Parent" means any person having legal custody of a juvenile:

1. As natural, adoptive parent, or step-parent;
2. As a legal guardian; or
3. As a person to whom legal custody has been given by order of the court.

**PERSON.** "Person" means any individual, partnership, co-partnership, corporation, or any association of one (1) or more individuals.

**RESIDENCE or PREMISES.** "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

**UNDERAGE PERSON.** "Underage person" is any individual under twenty-one (21) years of age.

D. Prohibited acts.

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1. It is unlawful for any person(s) to:

Host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does:

- a. Consume any alcohol or alcoholic beverage; or
  - b. Possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
2. A person is criminally responsible for violating section 3-299(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
  3. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

### **E. Exceptions.**

1. This article does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
2. This article does not apply to legally protected religious observances.
3. This article does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by M.S. § 340A.503 Subd. 1(a)(1), as amended.
4. This article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

### **F. Penalty. Violation of this section shall be considered a misdemeanor.**

## *Chapter XI: General Offenses*

### **Subsection 110.99 Violations and Penalties:**

- A. Failure to comply with the provisions set forth herein or referred to shall be considered a misdemeanor unless otherwise stated in the Code and/or by state or federal law. The penalties and procedures associated with all violations are set forth in **Chapter 1 Code Provisions** under *Subsection 10.99 General Penalties* and the City's corresponding *Schedule of Fees*.
- B. *Curfew penalties.*
  - 1. *Minors.* Any minor found to be in violation of Subsection 110.03 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. 260.185, as amended.
  - 2. *Adults.* Any adult person found to be in violation of Subsection 110.03 shall be guilty of a misdemeanor.

## CHAPTER XIII: FRANCHISES

### *Chapter Contents*

#### Section 130: Franchise Procedures

### **Section 130: Franchise Procedures**

#### *Section Contents*

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Subsection 130.02	Power of the City Council
Subsection 130.03	Limitations
Subsection 130.04	Procedure for Grant of Franchise
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Subsection 130.07	Additional Procedures, Filling Fees

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

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

**Subsection 130.03 Limitations:** No franchise shall be granted for a term longer than twenty-five (25) years. A franchise may be transferred upon adoption by the Council of a resolution

### ***Chapter XIII: Franchises***

approving the transfer. Such resolution may be adopted only upon an affirmative showing, satisfactory to the Council, by the proposed transferee of moral and financial responsibility, and the execution and filing with the Clerk of an instrument, duly acknowledged, setting forth that the transferee accepts and agrees to perform all of the terms and conditions of the franchise. A franchise may not be granted by emergency ordinance.

**Subsection 130.04 Procedure for Grant of Franchise:** Application for franchises shall be made upon such forms as may be prescribed by the Council and prepared by the City Clerk Administrator under its direction. The ordinance application shall contain all the terms and conditions of the franchise. The procedure for the adoption of franchise ordinances shall be the same as for other ordinances, except that before its adoption by the Council it shall be published once each week for two (2) successive weeks, the last publication of which must be at least one (1) week before it is adopted. The ordinance shall not be in effect until the grantee shall have filed with the City Clerk Administrator written acceptance of the same and all its terms and conditions.

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

- A. The grantee shall be subject to all the terms and conditions set forth in the ordinance granting the franchise and to all provisions of law, including ordinances of the City that may be applicable to the operation of the franchise privilege;
- B. The grantee shall in no case claim or pretend to exercise any power to fix fares, rates, charges or penalties but all fares, rates, charges and penalties shall in all cases be fixed and determined as provided in this Section;
- C. The Council shall have the right to require reasonable extensions of the public service system operated by the grantee under the franchise and to make such rules and regulations as may be required to secure adequate and proper service and to provide adequate accommodations for the public;
- D. The grantee shall not issue any capital stock on account of the franchise or the value thereon, and the grantee shall have no right to receive, upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value;

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- E. Every grant in the franchise of permission to construct facilities in, on or over the public streets, alleys or other public property shall be subject to the conditions that the same be done in such a manner so that the same shall be in as good condition as before and such further conditions as the Council may impose;
- F. Every grant in the franchise of permission to construct such facilities shall be subject to the condition that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health or convenience of the public, without cost to, or reimbursement by, the City.
- G. The grantee shall file with the City Clerk Administrator, within a period of three (3) months after the close of its fiscal year, a statement, subscribed and sworn to by some officer or person who knows the facts, setting forth in detail for the fiscal year just closed the then actual cost of the plant or business operated by such grantee, the actual encumbrances, debts and obligations thereon, if any, the amount of stock issued and to whom, the gross earnings, the expenses, the net income and the total amount of outstanding stock of said grantee;
- H. The failure of the grantee to obey the provisions of the law, or the ordinances of the City, or the violation of any of the terms and conditions set forth in or embraced within the franchise or the ordinance granting the same shall be a sufficient cause for the forfeiture, cancellation and revocation of the franchise by resolution of the Council.

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

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fixed, either by negotiation or arbitration, shall be in force for such term as is provided in the franchise or by prior agreement of the parties, but in no event shall the period exceed five (5) years, provided, further, the parties may at any time, by mutual consent, revise any prior agreement or arbitration determination made.

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

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**Subsection 150.01 Licenses Required to Engage in Certain Businesses:** No person shall engage in any of the trades, businesses, or professions for which licenses are required by Chapter XV of this Code or by any other ordinance of the City or provision of this Code without first applying for and obtaining a license from the City Clerk Administrator or other duly authorized issuing authority.

### **Subsection 150.02 Application for License:**

- A. All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk Administrator or other authorized official in writing upon forms to be furnished by him or her and shall contain:
1. The applicant's full name, address, and telephone number, and the full name of each officer, partner or business associate, if applicable;
  2. His or her present occupation and principal place of business;
  3. His or her place of residence for the preceding five years;
  4. The nature and location of the intended business or enterprise;
  5. The period of time for which the license is desired;
  6. A description of the merchandise, goods or services to be sold;
  7. If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle.
  8. Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.
- B. Any change in the information required by division (A) of this subsection must be reported to the City Clerk Administrator or other authorized official within 14 days of that change.

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- C. Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk Administrator or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.
- D. With each original or renewal application, the applicant shall deposit the fee required for the license requested.
- E. It shall be unlawful to knowingly make any false statement or representation in the license application.

**Subsection 150.03 Issuance of License:** Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk Administrator, shall deposit the fee in the general fund of the City and issue to the applicant a proper license certificate signed by the City Clerk Administrator.

**Subsection 150.04 Date and Duration of License:** A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

**Subsection 150.05 License Not Transferable:** Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.

**Subsection 150.06 License Certificate to be Displayed:** Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.

**Subsection 150.07 Revocation or Suspension:**

- A. Any license may be suspended or revoked by the City Clerk Administrator or City Council at any time for the following reasons:

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1. For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;
  2. For any misrepresentation of a material fact in the application discovered after issuance of the license;
  3. For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;
  4. For violation of any provision of this chapter or other Federal, State or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or
  5. Upon conviction of a licensee for any Federal, State or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.
- B. The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

**Subsection 150.08 Appeal and Review:** In case any applicant has been denied a license by the City Clerk Administrator, or if his or her license has been suspended or revoked by the City Clerk Administrator, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk Administrator or other authorized official the Mayor shall call a special meeting of the City Council for the purpose of holding the hearing unless a regular meeting of the City Council will occur within the 21-day period, and who shall fix the time and place for a hearing which shall be held not later than 21 days thereafter. Notice of appeal shall be filed in writing with the City Clerk Administrator.

Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the

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applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

### **Subsection 150.99 Violations and Penalties:**

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

**Section 151: Commercial Amusements**

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Subsection 151.01	Bowling; Billiards and Pool
Subsection 151.02	Circuses, Carnivals, Shows and Other Entertainment
Subsection 151.03	Amusement Devices
Subsection 151.04	Deposit Required
Subsection 151.05	License Fee for Public Entertainment or Exhibition
Subsection 151.06	Amusement Rides
Subsection 151.99	Violations and Penalties

**Subsection 151.01 Bowling; Billiards and Pool:** Each proprietor of a billiard or pool table or of a bowling alley, or a combination of both, shall pay an annual license fee as established by the City Council.

**Subsection 151.02 Circuses, Carnivals, Shows and Other Entertainment:**

- A. 1. Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time.
2. Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided, that the entertainment is not for profit.
- B. In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk Administrator or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk Administrator shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the police department or the fire department.

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- C. No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.
- D. Any license granted under the provisions of this Ordinance shall be granted with the express understanding that the City of Pennock reserves the right at all times to police any such exhibition and attraction, and if any show or amusement device is in the nature of gambling or is any way indecent or immoral, or if the exhibition and attraction is not conducted in a quiet and orderly manner, or if any drinking or drunkenness is permitted, the City shall have the right and power to close up and to forbid the continuance of any such objectionable features or the City may by majority vote by the Council revoke any license granted and if revoked, no part or portion of the license fee paid shall be refunded and the exhibition and attraction shall have no authority to operate after such revocation.

### **Subsection 151.03 Amusement Devices:**

- A. *Definition of Amusement Device:* A coin-operated mechanical amusement device is hereby defined as any machine which, upon the insertion of a coin, token or slug, operates or may be operated by the public generally for the use as a game, entertainment, or amusement, and which contains no automatic pay-off device for the return of money, coins, checks, tokens, or merchandise, or which provides no such pay-off by any other means or manner except that this provision shall not prohibit the licensing of such a machine which returns slugs or tokens which may be used only in the machine which returns slugs or tokens which may be used only in the machine licensed and which in itself does not constitute a gambling device. The term shall include so-called pinball machines, music machines, motion picture machines and all other machines which, by the insertion of a coin or token, operate for the entertainment or amusement of the player, except, however, weighing machines.
- B. *License Required:* No person, firm or corporation shall own, operate, maintain or keep for operation within the City of Pennock such coin-operated mechanical amusement device as hereinbefore defined without first having applied for and received a license therefore as hereinafter provided. No license shall be issued for any roulette wheel, slot machine, mechanical horse-race or any other gambling device.
- C. *License Fee:* Each owner of each individual machine or device shall make application at the office of the City Clerk Administrator, upon forms furnished by the City for an owner's license. Each such application shall be accompanied by the annual license fee as provided herein. The owner shall receive in addition to the license, one license tag annually for each machine he is

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licensed to own in the said City, where said tag shall be displayed upon the machine in a prominent place. The fee for the license shall be in an amount as determined by the City Council.

Owners licenses must be secured and affixed to the machines on or before January 1<sup>st</sup> of each year, and shall be renewed thirty days prior to expiration each year thereafter. The said license, as issued to said owner, shall license respective machine for a particular location within the limits of the City of Pennock, and proper note shall be taken in the license application, and upon the Clerk's records, of the location of each such machine so licensed as above stated.

It shall be permissible for an owner to replace a damaged or worn out amusement device, licensed to him, provided a machine of identical characteristics and purpose shall be substituted at any such location for the machine to be removed. It shall then be permissible for the owner to place upon the machine so substituted the original license tag issued to him or her in licensing the first, identical machine, and he or she shall be given proper notice in writing thereof to the City Clerk Administrator.

Shall a machine be sold by any owner, upon application to the City Clerk Administrator, and payment of a fee of \$1.00, the license originally issued to said owner shall be transferred to his or her immediate buyer, and the buyer shall be given credit for the unused portion of any license fee previously paid by the said original owner.

In the event an owner applied for a license subsequent to the beginning of the license year, he or she shall pay the prorated portion of the license fee from the date of issuance to the end of the license year as provided herein. All original applications shall contain a statement of the list price of said machine.

- D. *Person and operations prohibited:* No person, firm or corporation shall permit to be operated in his or her place of business any such machine or device by any person under the age of 16 years. No person, firm or corporation shall permit the operation of any such machine or devise for the making of side bets or gambling in any form. No price, award, merchandise, gift, money or anything of value shall be given any player of such machine or device.
- E. *Revocation of license:* Any license granted under the terms of this Ordinance may be revoked by the City Council after notice to the licensee and an opportunity to be heard. Any misstatement of fact in the application for said license and any use of said amusement device, either directly or indirectly, for gambling purposes, shall be grounds for revocation of such license.

**Subsection 151.04 Deposit Required:**

- A. At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Clerk Administrator or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be forfeited to the City to the extent of actual costs to the City for restoration and cleaning up of the grounds.
- B. No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place.

**Subsection 151.05 License Fee for Public Entertainment or Exhibition:** The fee for the license shall be in an amount as established by the City Council.

**Subsection 151.06 Amusement Rides:**

- A. For the purposes of this section **AMUSEMENT RIDE** shall mean a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement subject to regulation under M.S. § 184B.01 through § 184B.09, as it may be amended from time to time.

**AMUSEMENT RIDE** does not include:

- 1. A coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; or
  - 2. Non-mechanized playground equipment, including but not limited to swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, playground slides, trampolines, and physical fitness devices;
  - 3. Any other amusement device regulated under 151.03 of this code, as that ordinance may be amended from time to time.
- B. A person, firm, corporation or association must not operate an amusement ride without first obtaining a license under 151.02 of this code, as that ordinance may be amended from time to



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time and providing the City Clerk Administrator with a copy of:

1. A certificate stating that the insurance required by M.S. § 184B.02, as it may be amended from time to time, is in effect; and
2. An affidavit attesting that the inspection required by M.S. § 184B.03, as it may be amended from time to time, has been performed. The City Clerk Administrator, upon receipt shall furnish such information to the local law enforcement office.

### **Subsection 151.99 Violations and Penalties:**

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

**Section 152: Liquor and Beer**

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Subsection 152.04	Applications for Licenses
Subsection 152.05	Fees
Subsection 152.06	Term of License
Subsection 152.07	Granting of Licenses
Subsection 152.08	Conditions of Licenses
Subsection 152.09	Closing Hours
Subsection 152.10	Clubs
Subsection 152.11	No Bar, Partition Box or Screen Permitted
Subsection 152.12	Revocation
Subsection 152.13	Prohibited Sale
Subsection 152.99	Violations and Penalties

**Subsection 152.01 Sale Prohibited:** No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor.

**Subsection 152.02 Definitions:**

- A. **3.2 PERCENT MALT LIQUOR.** “3.2 percent malt liquor” is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.
- B. **CLUB.** “Club” is an incorporated/organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans’ organization, which:
1. has more than 50 members;
  2. has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
  3. is directed by a board of directors, executive committee, or other similar body chosen by the

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members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

- C. **ORIGINAL PACKAGE.** “Original package” is the sealed or corked container in which the liquor is placed at the place of manufacture.
- D. **RESTAURANT.** “Restaurant” is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity as prescribed by the appropriate license issuing authority.

**Subsection 152.03 License Required:** No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any 3.2 percent malt liquor within the city without first having received a license as hereinafter provided. Licenses shall be of the following three kinds:

- A. **Regular On-Sale.** Regular on-sale licenses shall be granted only to drugstores, cafes, restaurants and hotels where food is prepared and served for consumption on the premises and in bona fide clubs and shall permit the sale of such liquor for consumption on the premises only.
- B. **Temporary On-Sale.** Temporary on-sale licenses shall be granted only to clubs or charitable, religious, or non-profit organizations for the sale of 3.2 percent malt liquor for consumption on the premises only.
- C. **Off-Sale.** Off-sale licenses shall be granted to permit the sale at retail of such liquor in the original packages for removal from and consumption off the premises only.

**Subsection 152.04 Applications for Licenses:** All applications for any license to sell 3.2 percent malt liquor shall be made on forms provided by the city setting forth the name of the person asking for such license, the age of the applicant, representations as to the applicant’s character with such references as may be required, citizenship, the location where such business is to be carried on, whether such application is for “on-sale”, “off-sale”, or “temporary on-sale”, the business in connection with which the proposed license will operate, whether applicant is owner or operator of such business, the time such applicant has been in that business place, and such other information as the governing body may require from time to time. It shall be unlawful to make any false statement in an application.

**Subsection 152.05 Fees:** All applications for licenses shall be accompanied by a receipt from the city clerk for the required annual fee for the respective license. Upon rejection of any application for a license, the clerk shall refund the amount paid. The annual fee for an “on-sale” license shall be \$100. The annual fee for an “off-sale” license shall be \$25. The fee for a “temporary on-sale” license shall be \$20.

**152.06 Term of License:** All licenses shall expire on the last day of March in each year; provided that if eight months of any licensing year have elapsed when the application is made, the fee shall be reduced to one-half of the regular amount.

**Subsection 152.07 Granting of Licenses:** The city council shall cause an investigation to be made of all facts set forth in the application. Opportunity shall be given to any person to be heard for or against the granting of any license. After such investigation, the city council shall grant or refuse any such application in its discretion. All licensed premises shall have the license therefore posted in a conspicuous place at all times.

**Subsection 152.08 Conditions of Licenses:** All licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this ordinance, and subject to all other ordinances of the city applicable thereto.

- A. No license shall be granted to any person who has been convicted of a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor.
- B. No license shall give permission to sell 3.2 percent malt liquor in any theater, recreation hall or center, dance hall, ball park or other place of public gathering for the purpose of entertainment, amusement or playing of games, and no such liquor shall be consumed there.
- C. No “on-sale” license shall be granted for sales in connection with any business or club where such business or club has not been in operation at that place for at least six months immediately preceding such application.
- D. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this ordinance or where any license hereunder has been revoked for cause for at least one year after the said conviction or revocation.

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- E. No sale of 3.2 percent malt liquor shall be made to any person under guardianship, nor to any person under 21 years of age.
- F. All premises where any license hereunder is granted shall be open to inspection by any law enforcement or health officer or other properly designated officer or employee of the city at any time during which the place so licensed is open to the public for business.
- G. No gambling, nor any gambling device prohibited by law, shall be permitted in any licensed premises.
- H. All licenses under this ordinance shall be issued to the applicant only and shall be issued for the premises described in the application. Such license shall not be transferred to another place without the approval of the city council.
- I. No license shall be granted to any manufacturer of non-intoxicating malt liquor nor to anyone interested in the control of any such place, and no equipment or fixture in any licensed place shall be owned in whole or in part by any such manufacturer.
- J. Licenses shall be granted only to persons who are citizens or resident aliens and who reside within the city of Pennock and to persons of good moral character.

**Subsection 152.09 Closing Hours:** No sales of 3.2 percent malt liquor shall be made between the hours of 11:00 p.m. and 7:00 a.m. of any day, nor on Sunday, nor on any primary, general or special election day, nor on Good Friday, Thanksgiving, and Christmas Day.

**Subsection 152.10 Clubs:** No club shall sell 3.2 percent malt liquor except to members and to guests in the company of members.

**Subsection 152.11 No Bar, Partition Box or Screen Permitted:** In any place licensed for “on sale”, the liquor sold shall be served and consumed at tables in the dining or refreshment room of the cafe, restaurant, hotel or club, and shall not be consumed or served at bars; provided the same may be served at counters where food is regularly served and consumed. All windows in the front of any such place shall be clear glass, and the view of the whole interior shall be divided by screens, curtains or other devices which shall obstruct the view of any part of said room; provided, however, that partitions, subdivisions or panels not higher than 48 inches from the floor shall not be construed as in conflict with the foregoing; and provided, however, such license shall entitle the holder thereof

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to serve 3.2 percent malt liquors in a separate room of such restaurant to banquets or dinners at which are present not less than six persons.

**Subsection 152.12 Revocation:** Any license granted hereunder may be revoked by the council without notice to the grantee or a hearing may first be held by the council and the revocation then made for cause. Any violation of any provision or condition of this ordinance or any falsification of any statement in the application shall be ground for revocation. No portion of the license fee paid shall be returned upon revocation.

**Subsection 152.13 Prohibited Sale:** Nothing hereunder shall permit the manufacture, sale or transportation, or keeping or having in possession for sale or transportation of, or taking or receiving, or soliciting, any order for any liquor of a greater alcoholic content than three and two-tenths by weight except for medicinal, pharmaceutical or scientific purposes, and any such act is hereby made unlawful. Any violation of this provision upon any premises licensed hereunder shall constitute grounds for revocation.

### **Subsection 152.99 Violations and Penalties:**

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

**Section 153: Peddlers and Solicitors**

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Subsection 153.02	Exceptions to Definitions
Subsection 153.03	Licensing; Exemptions
Subsection 153.04	License Ineligibility
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Subsection 153.10	Effectiveness
Subsection 153.99	Violations and Penalties

**Subsection 153.01 Definitions:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PEDDLER.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.

**PERSON.** Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

**REGULAR BUSINESS DAY.** Any day during which the City hall is normally open for the purpose of conducting public business. Holidays defined by State law shall not be counted as regular business days.

**SOLICITOR.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of

samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term "canvasser."

**TRANSIENT MERCHANT.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

**Subsection 153.02 Exceptions to Definitions:**

- A. For the purpose of the requirements of this chapter, the terms **PEDDLER, SOLICITOR, and TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
- B. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS, SOLICITORS, and TRANSIENT MERCHANTS** as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

**Subsection 153.03 Licensing; Exemptions:**

- A. *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the City limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329 as it may be amended from time to time.
- B. *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from



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the City. Solicitors need not be licensed, but are still required to register pursuant to Subsection 153.07. A license shall be required for:

1. Each vehicle or mobile stand from which sales are made;
2. Each sales person making sales unless the sales are made from a vehicle or mobile stand which has been issued a license.

C. *Application.* Application for a City license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk Administrator. All applications shall be signed by the applicant. All applications shall include the following information:

1. Applicant's full legal name.
2. All other names under which the applicant conducts business or to which applicant officially answers.
3. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).
4. Full address of applicant's permanent residence.
5. Telephone number of applicant's permanent residence.
6. Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.
7. Full address of applicant's regular place of business (if any).
8. Any and all business related telephone numbers of the applicant.
9. The type of business for which the applicant is applying for a license.
10. Whether the applicant is applying for an annual or daily license.
11. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City (maximum 14 consecutive days).

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12. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.
  13. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any State or Federal statute or any local ordinance, other than traffic offenses.
  14. A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
  15. Proof of any requested county license.
  16. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
  17. A general description of the items to be sold or services to be provided.
  18. All additional information deemed necessary by the City Council.
  19. The applicant's driver's license number or other acceptable form of identification.
  20. The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.
- D. *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the Schedule of Fees.
- E. *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk Administrator, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk Administrator determines that the application is incomplete, the City Clerk Administrator must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk Administrator must issue the license unless there exist grounds for denying the license under Subsection 153.04, in which case the Clerk must deny the license. If the City Clerk Administrator denies the license, the applicant must be notified in writing of the decision, the

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reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

F. *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

G. *License exemptions.*

1. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
2. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
3. Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter. Penalty, see Subsection 10.99.

**Subsection 153.04 License Ineligibility:** The following shall be grounds for denying a license under this chapter:

- A. The failure of the applicant to obtain and show proof of having obtained any required county license.
- B. The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
- C. The conviction of the applicant within the past five years from the date of application for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft,

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larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

- D. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.
- E. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

### **Subsection 153.05 License Suspension and Revocation:**

- A. *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:
  - 1. Fraud, misrepresentation or incorrect statements on the application form.
  - 2. Fraud, misrepresentation or false statements made during the course of the licensed activity.
  - 3. Conviction of any offense for which granting of a license could have been denied under Subsection 153.04.
  - 4. Violation of any provision of this chapter.
- B. *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
- C. *Notice.* Prior to revoking or suspending any license issued under this chapter, the City shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

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- D. *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk Administrator within ten regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.
- E. *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.
- F. *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court. Penalty, see Subsection 10.99.

**Subsection 153.06 License Transferability:** No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued. Penalty, see Subsection 10.99.

**Subsection 153.07 Registration:** All solicitors, and any person exempt from the licensing requirements of this chapter under Subsection 153.03, shall be required to register with the City. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk Administrator shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable. Penalty, see Subsection 10.99.

**Subsection 153.08 Prohibited Activities:** No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

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- B. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.
- C. Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.
- D. Conducting business before 7:00 a.m. or after 9:00 p.m.
- E. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive. Penalty, see Subsection 10.99.

**Subsection 153.09 Exclusion by Placard:** No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section. Penalty, see Subsection 10.99.

**Subsection 153.10 Effectiveness:** The provisions of subsections 153.01, 153.02, 153.08 and 153.09 shall automatically apply upon adoption of this chapter. Subsections 153.03, 153.04, 153.05, 153.06 and 153.07 shall not be effective until the adoption of the City Council resolution or ordinance authorizing the licensing of persons covered by those sections.

**Subsection 153.99 Violations and Penalties:** Failure to comply with the provisions set forth herein or referred to shall be considered a misdemeanor unless otherwise stated in the Code and/or by state or federal law. The penalties and procedures associated with all violations are set forth in **Chapter 1**

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**Code Provisions** under *Subsection 10.99 General Penalties* and the City's corresponding ***Schedule of Fees***.

**Section 154 Specific Businesses Regulated**

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### ***TATTOO AND BODY PIERCING SERVICES***

**Subsection 154.01 Definitions:** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD OF HEALTH.** A Board of Health established under the provisions of M.S. 145A.03, as it may be amended from time to time. If the City does not have a Board of Health, then this term means the authority having the duties of a Board of Health in the City, including but not limited to the County Board of Health.

**BODY PIERCING.** Includes ear piercing except when the ear piercing procedure is performed with an ear piercing gun.

**BUSINESS.** Any entity that provides services for compensation.

**EAR PIERCING GUN.** A mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.

**GUARDIAN.** Has the same meaning as in Chapter XI.

**PARENT.** Has the same meaning as in Chapter XI.

**TATTOO.** Has the same meaning given in M.S. 609.2246, Subd. 2, as it may be amended from time to time.

**Subsection 154.02 Prohibitions:** No person shall do any of the following:

- A. Operate a business that offers tattooing or body piercing services unless the City Council issues it a license to do so;
- B. Perform a tattooing or body piercing procedure in a manner that does not meet the safety and sanitation standards established by this chapter and any Federal, State or local laws, rules or regulations;

- C. Perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this chapter and any Federal, State or local laws, rules or regulations. Penalty, see Subsection 10.99.

**Subsection 154.03 Application for License; Fees; Issuance:**

- A. A person seeking approval to operate a business that offers tattooing or body piercing services shall apply to the City on forms the City or the Board of Health shall prescribe and provide. The applicant shall submit all information the City and the Board of Health determines is necessary to process the application. The applicant shall include the fee established under the City's Ordinance Establishing Fees and Charges authorized by Subsection 30.11 as it may be amended from time to time, or as established by the Board of Health.
- B. To receive approval to offer tattooing or body piercing services, a business must demonstrate to the Board of Health the ability to meet the requirements established by this chapter and any Federal, State or local laws, rules or regulations for safe performance of the tattooing or body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.
- C. If the Board of Health determines, following an inspection conducted under Subsection 154.04, that a business meets the requirements for approval, it shall so advise the City. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk Administrator shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision. Approval remains valid for one year unless earlier suspended or revoked under Subsection 154.05. A business's approval may be renewed. Approval is not transferable. Penalty, see Subsection 10.99.

**Subsection 154.04 Inspection of Facilities:** The Board of Health, or a person or another body designed by the City, shall conduct at least one inspection of a business prior to approving the business under Subsection 154.03 to offer tattooing or body piercing services. The Board may conduct additional inspections as necessary for the approval process. The Board of Health may inspect an approved business at any time the Board considers necessary. In an inspection, the Board

of Health shall be given access to the business's premises and to all records relevant to the inspection. Penalty, see Subsection 10.99.

**Subsection 154.05 Suspension or Revocation of License:** The City Council may suspend or revoke the approval of a business to offer tattooing or body piercing services at any time it determines that the business is being operated in violation of this chapter or any Federal, State or local laws, rules or regulations. Proceedings for suspensions and revocations shall be conducted in accordance with rules adopted in Section 150 for the suspension or revocation of business licenses.

**Subsection 154.06 Consent for Performing Procedures on Persons Under 18:**

- A. No person shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with division (B) of this section. The consent must include both the custodial and non-custodial parents, where applicable.
- B. A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:
  - 1. Appear in person at the business at the time the procedure is performed;
  - 2. Sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following performance of the procedure. Penalty, see Subsection 10.99.

**Subsection 154.07 Prohibitions Relating to Persons Under 18:**

- A. 1. Unless consent has been given in accordance with Subsection 154.06, no individual who is under age 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
- 2. No individual who is under age 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a

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tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

- B. 1. No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
- 2. No individual shall impersonate the parent, guardian or custodian of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun. Penalty, see Subsection 10.99

### **Subsection 154.08 Defenses to Violations:**

- A. An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of Subsection 154.06(A) or any Federal, State or local laws, rules or regulations in which age is an element of the provisions if:
  - 1. The individual obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's or commercial driver's license or an identification card issued under state law showing that the individual was then at least age 18;
  - 2. The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and
  - 3. The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service was at least age 18.
- B. In any action or proceeding before a court of record in which a defense is raised under this section, the Registrar of Motor Vehicles or the Registrar's Deputy who issued a driver's or commercial driver's license or an identification card shall be permitted to submit certified copies

of the records, in the Registrar's or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

**Subsection 154.09 Training Standards; Records; Safety and Sanitation; Equipment:**

- A. Each operator of a business that offers tattooing or body piercing services shall do all of the following:
1. Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;
  2. With respect to tattooing services, maintain written records that include the color, manufacturer and lot number of each pigment used for each tattoo performed;
  3. Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any Federal, State or local laws, rules or regulations;
  4. Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any Federal, State or local laws, rules or regulations;
  5. Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.
- B. Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any Federal, State or local laws, rules or regulations.

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### **Subsection 154.99 Violations and Penalties:**

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

***JUNK DEALERS***

**Subsection 154.31 Definitions:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**JUNK DEALER.** A person whom operates a open lot or parcel where waste, discarded or scrap materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles or other vehicles, or parts thereof.

**Subsection 154.32 License Required:** No person shall engage in or carry on the business of a junk dealer within the corporate limits of the City of Pennock without first having obtained a license to do so and having paid the license fee as herein after provided.

**Subsection 154.33 Application:** Any person desiring a junk dealer's license shall make application therefore in writing to the City Council and such application shall state the name of the person, persons, firm or corporation who are to engage in or carry on the same, a description of the property or real estate where the business is to be conducted or carried on, and the nature of the business, whether wholesale, retail or both.

**Subsection 154.34 City Council May Grant or Refuse:** The City Council may at its discretion grant such license or refuse to grant the same.

**Subsection 154.35 Fee and Bond Required:** The fee for the license shall be in an amount as established in the Ordinance Establishing Fees and Charges adopted pursuant to Subsection 30.11 of this Code, as that ordinance may be amended from time to time. The applicant is also required to furnish and deliver to the City a bond in the sum of one thousand (\$1,000.00) dollars with sufficient corporate or personal sureties conditioned that the applicant will conduct his or her business fairly and without fraud or deceit and will conform to all the terms and conditions of all ordinances of the City of Pennock regulating the business of junk dealers and such bond must be approved by the City Council before any license is issued.

**Subsection 154.36 Granting of License:** Upon the granting of a license by the City Council, and upon the payment of the license fee, and upon furnishing of the bond aforesaid, and upon its

approval by the City Council, and then only a license shall be issued to the applicant to conduct such business as a junk dealer on the property described in the application, which license shall specify the place where the business is to be conducted and shall be signed by the Mayor and attested by the City Clerk Administrator and said license shall run for one year and shall expire one year from the date of its issue.

**Subsection 154.37 Maintenance Required:** Any person, persons, firm, association or corporation licensed to carry on the business of a junk dealer under the provisions of this ordinance shall keep all junk on the property where the business is carried on and shall not allow any junk to be placed beyond the property line or to be placed in or upon any public street, alley or public grounds. The place where said junk is kept or stored shall be enclosed by a tight fence not less than eight feet in height, which fence must be kept painted at all times and no advertising matter shall be placed thereon. No hides, pelts or other materials creating or causing any odor or stench so as to annoy those living near to said place of business, or so as to be a nuisance to any of the surrounding property or property owners shall be kept on said premises.

**Subsection 154.38 Register Required to be Kept:** Every person firm, association or corporation who may be licensed as a junk dealer pursuant to this Ordinance shall keep at his or her place of business a register in which he or she shall enter in writing in the English language a minute description of each article of personal property acquired or purchased in the course of his or her business. Mention must be made in such entries of any prominent distinguishing mark there may be on such article, the date when the same is received or purchased and the name or names and the residence of the person or persons delivering the same or from whom the same was purchased. Each register shall be kept clean and legible and without erasure or defacement of any of the entries made therein, providing however, that the making of minute entries of articles purchased in either carload lots, truck lots or wagon lots shall no be necessary in such cases a general description of the type or character of the lots purchased with the name and address of the person selling or delivering the same shall be sufficient.

**Subsection 154.39 Small Exhibit Register:** Every business so licensed as aforesaid at any time during business hours, when requested by the Mayor, the Chief of Police or any police officer or Council Member of said City, shall exhibit to the officer so making the request the said register provided for in Subsection 154.37 and the entries thereon and shall also exhibit to such officer or officers when requested any article of personal property which such licensed person may have received or purchased in the conduct of his business.



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### **Subsection 154.99 Violations and Penalties:**

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

***FIREWORKS DEALERS***

**Subsection 154.60 Purpose and Findings:** The purpose of this Section is to regulate the sale of permitted consumer fireworks in order to protect the health, safety and welfare of the general public. The City Council makes the following findings regarding the need to license and regulate the sale, distribution, storage, and display of fireworks permitted under State law:

- A. Consumer fireworks contain pyrotechnic chemical compositions that are combustible; accordingly, the unregulated accumulation, storage, display and sale of these items present a fire safety hazard.
- B. The improper disposal of consumer fireworks presents environmental hazards.
- C. Regular inspection, sampling and testing of the consumer fireworks being offered for sale is necessary to assure compliance with the limitations set forth in Minnesota Statutes §624.20, subd. 1 (c), as to chemical content.
- D. Regular police inspections are necessary to prevent the sale of these materials to minors.
- E. Regular inspections by the City Fire Chief are necessary to prevent improper display, storage and disposal of consumer fireworks.
- F. Accurate information concerning the addresses and locations of persons dealing in permitted consumer fireworks in the City is necessary to facilitate the inspection of the premises for compliance with necessary safety regulations and performance standards and to assist the City in responding to any emergency situation arising out of or adjacent to this business.

**Subsection 154.61 Definitions:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADULT.** A person 18 years of age or older.

**BUSINESS.** Refers to the business of selling, storing or displaying any form of permitted consumer fireworks.

**ISSUING AUTHORITY.** The City of Pennock.

**LICENSED PREMISES.** The premises described in the approved license application and

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approved site plan for the sale, display and storage of permitted consumer fireworks.

**LICENSEE.** The person to whom a license is issued, including any agents or employees of the person.

**MOVABLE PLACE OF BUSINESS.** A business whose physical location is not permanent or is capable of readily being moved or changed, including without limitation commercial transactions conducted in whole or in part from motorized vehicles, non-permanent stands, mobile sales kiosks, trailers, tents or carts.

**PERMITTED CONSUMER FIREWORKS.** Those non-explosive, non-aerial pyrotechnic entertainment devices containing only the limited amounts of pyrotechnic chemical compositions permitted by Minnesota Statutes § 624.20, subd. 1(c).

**PERSON.** One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.

**TRANSIENT MERCHANT.** Any person who engages in or transacts any temporary and transient business in the City, either in one locality or in traveling from place to place in the City selling merchandise and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, stand, tent, trailer, cart, structure, vacant lot or motor vehicle for the exhibition and sale of such merchandise.

**Subsection 154.62 License Required:** No person shall keep for retail sale or wholesale distribution, sell at retail or wholesale, or otherwise supply or furnish as part of a commercial transaction any permitted consumer fireworks without first having obtained a current license hereunder, paid the required license fee and conspicuously posted the license on the licensed premises. Issuance of a license under this Section shall not relieve the person from obtaining any other licenses required by City Code, State law or Federal law to conduct this or other businesses at the same or any other location.

### **Subsection 154.63 License Fee and Term of License:**

- A. The annual license fee shall be as set forth in the City's Ordinance Establishing Fees and Charges authorized by Subsection 30.11, as it may be amended from time to time. The license fee shall cover the administrative and enforcement costs, including the conduct of unannounced compliance checks, inspections by the Fire Chief, inspections by the Police Department, as well

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as sampling and testing of the merchandise to ascertain chemical content. Full payment of the required license fee shall accompany the application.

- B. When the license is for premises not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety (90) days after approval of the license or upon the date the building is ready for occupancy, whichever is sooner.
- C. When a new license application is submitted as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional fee shall be required.
- D. A separate fee and license shall be required for each separate, non-contiguous licensed premises, even if owned and operated by the same licensee. The annual license shall be effective for one (1) year from the date of approval. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in such form as the Issuing Authority requires.

**Subsection 154.64 Mobile Sales or Sales by Transient Merchants:** No license shall be issued for the sale of permitted consumer fireworks at a movable place of business, including without limitation, mobile sales made from motorized vehicles, mobile sales kiosks, non-permanent stands or trailers. No license shall be issued hereunder to transient merchants or as a seasonal or temporary sale's license.

**Subsection 154.65 License Application:** An application for a license under this Section shall be made on a form supplied by the Issuing Authority and shall contain the following information:

- A. Whether the applicant is a natural person, corporation, partnership or any other business association or organization.
- B. The applicant's full legal name, mailing address and telephone number.
- C. The street address or legal description of the premises to be licensed.
- D. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

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- E. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. Plans or designs must be submitted to the City of Pennock.
- F. If the applicant does not own the business premises, a true and correct copy of the current, executed lease, as well as, the written authorization of the property owner for the applicant's use of the property for the sale of permitted consumer fireworks.
- G. The applicant's hours of operation, on-site management and parking facilities.
- H. A detailed site plan illustrating and describing the proposed sales and storage areas covered by the license.
- I. The full name, mailing address, and telephone number of the person in charge of the licensed premises.
- J. Such other information as the City Council may require.

**Subsection 154.66 Insurance Required:** All licensees must have at all times a valid certificate of insurance issued by an insurance company licensed to do business in the State of Minnesota evidencing that the applicant's use of the property is currently covered by a liability insurance policy. The minimum limits of coverage for such insurance shall be:

- A. At least \$200,000 for each claim.
- B. At least \$500,000 for each incident.

Such insurance shall be kept in force during the term of the license and the licensee must provide for prior notification to the City of Pennock should the policy be terminated or canceled. A certificate of insurance must accompany all initial and renewal license applications.

### **Subsection 154.67 License Application Verification and Consideration:**

- A. *Verification.* Applications for a license under this Section shall be submitted to the Issuing Authority who shall verify the information on the application form. The Issuing Authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history

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inquiry on the applicant.

- B. *Consideration.* After verifying the information contained on the license application, the Issuing Authority shall then route the application to the City Fire Chief who shall review the site plan and determine if the manner of storage, display or sales area of the licensed premises constitutes a fire or safety hazard. In assessing the potential hazard, reference shall be made to all applicable State and Federal laws, rules and regulations, as well as the administrative standards for the storage, display and sales of permitted consumer fireworks. If the Fire Chief finds no such hazard with the proposed site plan, the Issuing Authority shall grant the license in accordance with this Section. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.
- C. *Denial of Application.* If the application is denied, the Issuing Authority shall notify the applicant of that determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days after the date of the notice to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within a reasonable period thereafter.

### **Subsection 154.68 Persons and Locations Ineligible for a License:**

- A. *Persons Ineligible.* No original or renewal license under this Section shall be issued to an applicant who if such applicant or any manager, proprietor, or agent in charge of the business to be licensed:
  - 1. Is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority;
  - 2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes §364.03, subd. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a purveyor of permitted consumer fireworks as prescribed by Minnesota Statutes §364.03, subd. 3;
  - 3. Is not of good moral character or repute;
  - 4. Has knowingly falsified or misrepresented information on the license application;

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5. Is not the real party in interest in the business being licensed; or
6. Owes taxes or assessments to the State, County, School District, or City that are due and delinquent.

B. *Locations Ineligible.* The following locations shall be ineligible for a license under this Section:

1. *Claims Due.* No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the State, County, School District, or City are due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes §§278.01-278.13, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.
2. *Improper Zoning.* No license shall be granted if the property is not properly zoned for the activity being licensed, unless the business is a legal, nonconforming use.

### **Subsection 154.69 License Restrictions:**

- A. *License Display.* A license issued under this Section must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.
- B. *Licensed Premises.* A separate license is required for each place of business.
- C. *Change in Ownership.* Any change, directly or beneficially, in the ownership of the licensed business shall require the application for a new license and the new owner must satisfy all current eligibility requirements.
- D. *Non-transferable.* Each license under this Section shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.
- E. *Location restrictions.* A license under this Section authorizes the licensee to carry on its business only at the permanent place of business designated on the license. However, upon written request, the City may approve an off-site locked and secured storage facility. Such a site must meet all City zoning requirements and must have the written approval of the City's Fire Chief. The licensee shall permit inspection of the facility in accordance with this Section. Property shall

be stored in compliance with all provisions of the City Code and in compliance with the standards established by the City's Fire Chief. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises which extends for more than six (6) months. No retail business transactions shall be conducted at this off-site storage site.

**Subsection 154.70 Restrictions Regarding Operation:**

- A. *Prohibited Transactions.* No licensee, clerk, agent or employee thereof shall sell, distribute or furnish any permitted consumer fireworks to a person under the age of eighteen (18) years, any person who is obviously intoxicated, chemically impaired or incompetent, or any person who fails to present competent age identification in the form of a current, valid Minnesota driver's license, current, valid Minnesota identification card, or current, valid photo driver's license or photo identification issued by another State or a province of Canada.
- B. *Inspection of Items.* The licensee must, at all times during the term of the license, allow the authorized agents of the City of Pennock to enter the premises where the licensed business is located, including all display areas, storage areas and all approved off-site storage facilities, during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise therein for the purpose of verifying compliance with the requirements of this Section, and any other applicable State and Federal regulations. Upon request, the licensee must provide a test sample to the inspector for the purpose of verifying the chemical content of the merchandise.
- C. *Maintenance of Order.* A licensee under this Section shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
- D. *Smoking Prohibited.* A licensee under this Section must strictly prohibit any cigarette, cigar, or pipe smoking in or around the licensed premises and conspicuously post and maintain appropriate "NO SMOKING" signage throughout.
- E. *Proper Disposal of Unsold Permitted Consumer Fireworks.* It shall be the responsibility of the licensee to properly dispose of all unsold permitted consumer fireworks. Any consequential cost to the City for disposal of these goods shall be the ultimate responsibility of the licensee.
- F. *Maintenance of Sales and Storage Areas.* Any significant deviation, enlargement or alteration from the approved site plan for the sales display and storage areas covered by the license must be pre-approved in writing by the Pennock Fire Chief.



- G. *Confiscation and Destruction of Illegal Fireworks.* Any authorized agent of the City of Pennock may seize, take, remove or cause to be removed all stocks of fireworks or other combustibles offered or exposed for sale, stored or held in violation of this Section or applicable State or Federal law. Any consequential cost to the City for disposal of these goods shall be the ultimate responsibility of the licensee.

**Subsection 154.71 Sanctions For License Violations:**

- A. *Suspension or Revocation.* The City Council may suspend or revoke a license issued pursuant to this Section for a violation of:
1. Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
  2. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
  3. Any violation of this Section or state law.
  4. A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes § 364.03, subd. 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes § 364.03, subd. 3.
  5. Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
  6. Any significant unauthorized deviation, enlargement or alteration of the approved site plan for the storage and sales display areas of the licensed premises shall, in and of itself, constitute a basis for license revocation.
- B. *Notice of Hearing.* A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular and certified mail to the licensee at the most recent address listed on the license application.

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### **Subsection 154.99 Violations and Penalties:**

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

**Section 155: Tobacco Regulations**

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**Subsection 155.01 Purpose and Intent:** Because the City recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products, and tobacco related devices, and the sales, possession, and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State in regard to preventing young people from starting to smoke as stated in M.S. 144.391, as it may be amended from time to time.

**Subsection 155.02 Definitions:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMPLIANCE CHECKS.** The system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and

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complying with the requirements of this chapter. Compliance checks shall involve the use of minors as authorized by this chapter. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

**INDIVIDUALLY PACKAGED.** The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

**LOOSIES.** The common term used to refer to a single or individually packaged cigarette.

**MINOR.** Any natural person who has not yet reached the age of 18 years.

**MOVEABLE PLACE OF BUSINESS.** Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

**RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores and restaurants.

**SALE.** Any transfer of goods for money, trade, barter or other consideration.

**SELF-SERVICE MERCHANDISING.** Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.

**TOBACCO or TOBACCO PRODUCTS.** Any substance or item containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, fine cut or other chewing

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tobacco, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco, snuff flowers, cavendish, shorts, plug and twist tobaccos, dipping tobaccos, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing or smoking.

**TOBACCO RELATED DEVICES.** Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

**VENDING MACHINE.** Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

### **Subsection 155.03 License:**

- A. *License required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the City.
- B. *Application.* An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk Administrator shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
- C. *Action.* The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk Administrator shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.
- D. *Term.* All licenses issued under this chapter shall be valid for one calendar year from the date of issue.

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- E. *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in Subsection 155.99.
- F. *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.
- G. *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.
- H. *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
- I. *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- J. *Issuance as privilege and not a right.* The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license. Penalty, see Subsection 155.99.

**Subsection 155.04 Fees:** No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the City's Schedule of Fees. Penalty, see Subsection 155.99.

### **Subsection 155.05 Basis for Denial of License:**

- A. Grounds for denying the issuance or renewal of a license under this chapter includes but is not limited to the following:
  - 1. The applicant is under the age of 18 years.
  - 2. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

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3. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application.
  4. The applicant fails to provide any information required on the application, or provides false or misleading information.
  5. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.
- B. However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license.
- C. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter. Penalty, see Subsection 155.99.

**Subsection 155.06 Prohibited Sales:** It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- A. To any person under the age of 18 years.
- B. By means of any type of vending machine, except as may otherwise be provided in Subsection 155.07.
- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.
- D. By means of loosies as defined in Subsection 155.02.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- F. By any other means, to any other person, in any other manner or form prohibited by Federal, State or other local law, ordinance provision, or other regulation. Penalty, see Subsection 155.99.

**Subsection 155.07 Vending Machines:** It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment. Penalty, see Subsection 156.99.

**Subsection 155.08 Self-Service Sales:** It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this section within 90 days following the effective date of this chapter. Penalty, see Subsection 155.99.

**Subsection 155.09 Responsibility:** All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this chapter, State or Federal law, or other applicable law or regulation. Penalty, see Subsection 155.99.

**Subsection 155.10 Compliance Checks and Inspections:** All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when those items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for



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which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law. Penalty, see Subsection 155.99.

**Subsection 155.11 Other Illegal Acts:** Unless otherwise provided, the following acts shall be a violation of this chapter:

- A. *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.
- B. *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B) shall not apply to minors lawfully involved in a compliance check.
- C. *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, or tobacco related device.
- D. *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation 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. This division (D) shall not apply to minors lawfully involved in a compliance check.
- E. *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person. Penalty, see Subsection 155.99.

**Subsection 155.12 Exceptions and Defenses:** Nothing in this chapter 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 shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by State law.

**Subsection 155.99 Violations and Penalties:**

*A. Violations.*

1. *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
2. *Hearings.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
3. *Hearing Officer.* The City official designated by the City Council shall serve as the hearing officer.
4. *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under division (B) of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.
5. *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.
6. *Misdemeanor prosecution.* Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.
7. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

*B. Administrative penalties.*

1. *Licensees.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

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2. *Other individuals.* Other individuals, other than minors regulated by division (B)(3) of this section, found to be in violation of this chapter shall be charged an administrative fee of \$50.
3. *Minors.* Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the City believes will be appropriate and effective. The administrative fine or other penalty shall be established by City Council ordinance upon the City Council's consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the City. This administrative fine or other penalty may also be established from time to time by the ***Schedule of Fees***.
4. *Misdemeanor.* Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this chapter.
5. *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

## **Section 156: Regulating Lawful Gambling**

### ***Section Contents***

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Subsection 156.02	City May Be More Restrictive Than State Law
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Subsection 156.05	Applicability
Subsection 156.06	Lawful Gambling Permitted
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Subsection 156.09	Local Permits
Subsection 156.10	Revocation and Suspension of Local Permit
Subsection 156.11	License and Permit Display
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Subsection 156.15	Records and Reporting
Subsection 156.16	Hours of Operation
Subsection 156.17	Severability
Subsection 156.99	Violations and Penalties

### **Subsection 156.01 Adoption of State Law by Reference:**

The provisions of M.S. Ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling, are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the Council that all future amendments of M.S. Ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this chapter was adopted.

### **Subsection 156.02 City May Be More Restrictive Than State Law:**

The Council is authorized by the provisions of M.S. § 349.213, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on gambling within its limits beyond those contained in M.S. Ch. 349, as it may be amended from time to time.

**Subsection 156.03 Purpose:**

The purpose of this chapter is to regulate lawful gambling within the city, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

**Subsection 156.04 Definitions:**

In addition to the definitions contained in M.S. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

**BOARD.** The State of Minnesota Gambling Control Board.

**LICENSED ORGANIZATION.** An organization licensed by the Board.

**LOCAL PERMIT.** A permit issued by the city.

**TRADE AREA.** This city and each city and township contiguous to this city.

**Subsection 156.05 Applicability:** This chapter shall be construed to regulate all forms of lawful gambling within the city except:

- A. Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if: the prizes for a single bingo game do not exceed \$10; total prizes awarded at a single bingo occasion do not exceed \$200; no more than two bingo occasions are held by the organization or at the facility each week; only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game; no compensation is paid for any persons who conduct the bingo; and a manager is appointed to supervise the bingo.
- B. Raffles, if the value of all prizes awarded by the organization in a calendar year does not exceed \$1,500.

**Subsection 156.06 Lawful Gambling Permitted:**

Lawful gambling is permitted within the city if the Council, by resolution adopted by a majority of its members authorizes lawful gambling to occur, provided it is conducted in accordance with

Minnesota Statutes, as amended from time to time.

**Subsection 156.07 Council Approval:**

Lawful gambling authorized by Minnesota Statutes, as amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this chapter and state law.

**Subsection 156.08 Application and Local Approval of Premises Permits:**

- A. Any organization seeking to obtain a premises permit or bingo hall license or renewal of a premises permit or bingo hall license from the Board shall file with the City Clerk Administrator an executed, complete duplicate application together with all exhibits and documents accompanying the application as filed with the Board. The application and accompanying exhibits and documents shall be filed not later than three days after they have been filed with the Board.
- B. Upon receipt of an application for issuance or renewal of a premises permit or bingo hall license, the City Clerk Administrator shall transmit the application to the Chief of Police, or the Sheriff of the county in which this city is located, for review and recommendation.
- C. The Chief of Police or Sheriff shall investigate the matter and make a review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
- D. Organizations or bingo halls applying for a state-issued premises permit or bingo hall license shall pay the city a \$100 investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced.
- E. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.
- F. The Council shall receive the Police Chief's or Sheriff's report and consider the application within 45 days of the date the application was submitted to the City Clerk Administrator.
- G. The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.
- H. The Council shall disapprove an application for issuance or renewal of a premises permit for any

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of the following reasons, otherwise the Council shall approve the application:

1. Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years.
2. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three years.
3. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
4. Lawful gambling would be conducted at more than one premises within the city. The city may limit the number of premises where lawful gambling may be conducted.
5. An organization would be permitted to conduct lawful gambling activities at more than one premises in the city.
6. More than one licensed organization would be permitted to conduct lawful gambling activities at one premises.
7. Failure of the applicant to pay any investigation fee provided by division (D) of this section within the prescribed time limit.
8. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

### **Subsection 156.09 Local Permits:**

- A. No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by M.S. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by Subsection 156.05.
- B. Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:
  1. Name and address of the organization requesting the permit.

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2. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
  3. Dates of gambling occasion for which permit is requested.
  4. Address of premises where event will occur.
  5. Copy of rental or leasing arrangement, if any, connected with the event, including rental to be charged to organization.
  6. Estimated value of prizes to be awarded.
- C. The fee for a local permit shall be \$100. The fee shall be submitted with the application for a local permit. This fee shall be refunded if the application is withdrawn before the investigation is commenced.
- D. Upon receipt of an application for issuance or renewal of a local permit, the City Clerk Administrator shall transmit the notification to the Chief of Police or Sheriff for review and recommendation.
- E. The Chief of Police or Sheriff shall investigate the matter and make review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
- F. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.
- G. The Council shall receive the Police Chief's or Sheriff's report and consider the application within 45 days of the date the application was submitted to the City Clerk Administrator.
- H. The Council shall disapprove an application for issuance or renewal of a premises permit for any of the following reasons, otherwise the Council shall approve the application:
1. Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years.
  2. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection



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of public safety within the last three years.

3. The organization has not been in existence in the city for at least three consecutive years prior to the date of application.
  4. The organization does not have at least 30 active members.
  5. Exempted or excluded lawful gambling will not take place at a premises the organization owns or r
  6. Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.
  7. An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.
  8. More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.
  9. Failure of the applicant to pay permit fee provided by division (C) of this section within the prescribed time limit.
  10. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.
- I. Local permits shall be valid for one year after the date of issuance unless suspended or revoked.

### **Subsection 156.10 Revocation and Suspension of Local Permit:**

- A. A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling.
- B. A license shall not be revoked or suspended until notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served and shall state the provision reasonably believed to be violated. The notice shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or

revoke the permit.

**Subsection 156.11 License and Permit Display:**

All permits issued under state law or this chapter shall be prominently displayed during the permit year at the premises where gambling is conducted.

**Subsection 156.12 Notification of Material Changes to Application:**

An organization holding a state-issued premises permit or a local permit shall notify the city in writing whenever any material change in the information submitted in the application occurs within ten days of the change.

**Subsection 156.13 Contribution of Net Profits to Fund Administered by City:**

- A. Each organization licensed to conduct lawful gambling within the city pursuant to M.S. § 349.16, as it may be amended from time to time, shall contribute 10% of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city without cost to the fund. The city shall disburse the funds for lawful purposes as defined by M.S. § 349.12, Subd. 25, as it may be amended from time to time.
- B. Payment under this section shall be made on the last day of each month.
- C. The city's use of these funds shall be determined at the time of adoption of the city's annual budget or when the budget is amended.

**Subsection 156.14 Designated Trade Area:**

- A. Each organization licensed to conduct gambling within the city shall expend 100% of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.
- B. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city's jurisdiction.

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### **Subsection 156.15 Records and Reporting:**

- A. Organizations conducting lawful gambling shall file with the City Clerk Administrator one copy of all records and reports required to be filed with the Board, pursuant to M.S. Ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.
- B. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by Subsection 156.14. Such report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal.

### **Subsection 156.16 Hours Of Operation:**

Lawful gambling shall not be conducted between 1:00 a.m. and 8:00 a.m. on any day of the week.

### **Subsection 156.17 Severability:**

If any provision of this chapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

### **Subsection 156.99 Violations and Penalties:**

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

**Section 157: Garage or Rummage Sales**

***Section Contents***

Subsection 157.01	Definitions
Subsection 157.02	Restrictions and prohibitions
Subsection 157.03	Exceptions
Subsection 157.99	Violations and Penalties

**Subsection 157.01 Definitions:** The following term, as used in this chapter, shall have the meaning stated:

**GARAGE or RUMMAGE SALE.** Any display and sale of personal property, conducted on premises located in any Residentially-Zoned District by the occupant and which garage or rummage sale does not require a business license or make taxable sales, leases or services.

**Subsection 157.02 Restrictions and Prohibitions:**

- A. None of the items offered for sale shall have been obtained for resale or received on consignment for sale.
- B. Any garage or rummage sale (community or neighborhood sale) shall be conducted solely within the boundaries of the property owned or occupied by the occupant who is conducting the sale.
- C. There shall be no more than four garage or rummage sales conducted at any one premises during any period of 12 calendar months.
- D. No garage or rummage sale shall be conducted during any part of more than three consecutive days.
- E. No garage or rummage sale may be conducted before 7:00 a.m. or after 8:00 p.m.
- F. Any related signage shall be limited to the premises and to other residential property, provided permission from the property owner is obtained, and shall be removed at the termination of the sale. Signs shall be limited to four square feet.
- G. There shall be no more than two consecutive sales with 30-day separation between all others.

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### **Subsection 157.03 Exceptions:**

This chapter shall not apply to any sale under court order, nor to any bona fide auction sale, nor to a sale of farm or garden products by the person producing same.

### **Subsection 157.99 Violations and Penalties:**

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

**Section 158: Regulation of Public Dances and Special Events**

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***Public Dances***

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Subsection 158.03	Permit Required
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Subsection 158.06	Location
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Subsection 158.10	Hours
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***Special Events***

Subsection 158.20	Purpose and Findings
Subsection 158.21	Definitions
Subsection 158.22	Permit Required
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Subsection 158.25	Exceptions to the Permit
Subsection 158.99	Violation and Penalties

***PUBLIC DANCES***

**Subsection 158.01 Regulation of Public Dances:** All public dances held in this city shall be conducted in accordance with the provisions of this chapter.

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**Subsection 158.02 Definitions:** The terms stated below shall have the following meanings:

**PUBLIC DANCE.** Any dance where the general public may participate, whether or not a charge for admission for dancing is made.

**PUBLIC DANCING PLACE.** Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.

### **Subsection 158.03 Permit Required:**

No person shall conduct a public dance in this city unless a permit has been obtained from the City Clerk Administrator prior to the holding of the dance. The fees for a permit shall be as established by the Ordinance Establishing Fees and Charges, adopted pursuant to ' 30.11 of this code, as that ordinance may be amended from time to time. In addition to this fee, the applicant shall pay the cost to the city of providing a licensed peace officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of licensed peace officers required to be present at any dance. No permit shall be issued until the fee and the cost for providing the peace officer or officers has been paid.

### **Subsection 158.04 Application for Permit:**

Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the City Clerk Administrator, submitted to the City Clerk Administrator at least ten days before the date of the proposed dance. The application shall set forth the name and address of the applicant, who shall be the person responsible for conducting the public dance, and any business, committee or organization sponsoring the dance, the place where the dance is to be held, the date of the dance and the time of its beginning and end. Proof of all insurance required by this chapter shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit application, and no permit shall be issued until the fees for the use of the city building or other city property have also been paid.

### **Subsection 158.05 Insurance:**

Insurance in the amount of \$500,000 per individual claim and \$1,500,000 per event is required. All insurance policies required for the event, including any insurance required by law for the sale of alcoholic beverages, shall list the city as a named insured and provide a provision to defend,

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indemnify and hold harmless the city and any of its employees from any claims arising from the event.

### **Subsection 158.06 Location:**

The applicant shall make sure that adequate parking is available for the persons wishing to attend the dance and make sure that the location is safe and accessible. This information shall also be provided to the City Clerk Administrator before a permit shall be issued.

### **Subsection 158.07 Permit to be Posted:**

When a permit is issued, the holder of the permit shall post the permit in a prominent location on the premises on which the dance is to be held during the time the dance is occurring. The applicant shall be present at all times while the dance is occurring.

### **Subsection 158.08 Liquor License Required:**

No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Ch. 340A, without obtaining a license from the city.

### **Subsection 158.09 Licensed Peace Officer Presence:**

No public dance shall occur without at least one licensed peace officer or more, if more are required under the criteria established by the City Council, who shall be present at the public dancing place during the duration of the dance and after the dance, until all of the participants have left the public dancing place.

**Subsection 158.10 Hours:** No public dance shall occur between the hours of 1:00 a.m. and 12:00 noon.

**Subsection 158.11 Minors Prohibited:** No person under the age of 21 shall be allowed to be present by the permit holder or any peace officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.



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**Subsection 158.12 Certain Behavior Prohibited:** No person present at any public dance shall engage in any disorderly conduct, as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person may be immediately removed from the dance by the peace officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the peace officer present may terminate the dance and remove all persons from the public dancing place.

**Subsection 158.13 Lighting:** In order to protect the safety of persons attending a public dance, public dancing places shall be adequately illuminated and dancing therein while lights are extinguished, dimmed or turned low so as to give inadequate or imperfect illumination is hereby prohibited. All exit areas shall be illuminated at all times during the public dance with light having intensity of not less than one foot-candle at floor level. Illumination of less than 0.5 foot-candles in any area where dancing is occurring, permitted or encouraged is prohibited.

**Subsection 158.14 Noise:** All public dances shall be subject to the provisions of this code regulating noise.

### **Subsection 158.99 Violations and Penalties:**

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

***SPECIAL EVENTS***

**Subsection 158.20 Purpose and Findings:**

The purpose of this chapter is to protect the health, safety and welfare of the citizens of this city by regulating the time, place and manner of conduct of special events and by establishing permit requirements for conducting special events as such are herein defined. The City Council finds that special events often exceed the city's capacity to provide usual city services. These city services include, but are not limited to sanitary, fire, police and utility services. The City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of these events on parking and vehicular traffic within the city.

**Subsection 158.21 Definitions:**

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

**PERSON.** A natural person, association, organization, club, group formed for a common purpose, partnership of any kind, limited liability company, corporation or any other legal entity.

**SPECIAL EVENTS.** An outdoor gathering of at least 25 individuals, whether on public or private property, assembled with a common purpose for a period of one hour or longer. **SPECIAL EVENTS** include, but are not limited to concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. **SPECIAL EVENTS** do not include noncommercial events held on private property, such as graduation parties or social parties.

**Subsection 158.22 Permit Required:**

No person shall hold, conduct or participate in a special event within the city, unless a permit has been issued for such event upon timely written application made to the city.

**Subsection 158.23 Application For Permit:**

Written application for special event permits must be made at least 30 days in advance of the event's proposed date in a form prescribed by the City Council. This application period shall not begin to

run until a complete application has been filed with the city. Application forms shall be made available in the office of the City Administrator. A fee, in the amount specified in the Ordinance Establishing Fees and Charges, shall be paid to the city along with the completed application form. In addition to the fee, the applicant shall pay all additional costs incurred by the city as a direct result of the special event. Failure to provide a complete application or to pay the fee, as herein required, is sufficient reason to deny the special event permit.

**Subsection 158.24 Issuance of Permit, Conditions and Posting:**

A. Special event permits will be issued upon City Council approval. The Council may attach reasonable conditions to the permit as are deemed necessary to protect the health, safety and welfare. Such conditions may pertain to any of the following:

1. Location and hours during which the event may be held;
2. Sanitation/availability of potable water;
3. Security/crowd management;
4. Parking and traffic issues;
5. Emergency and medical services;
6. Clean-up of premises and surrounding area/trash disposal;
7. Insurance in the amount of \$1,500,000 per event and \$500,000 per individual claim. All required policies shall name the city as an additional insured. Applicants shall agree to defend and indemnify the city from any and all claims;
8. Lighting;
9. Fire service/safety;
10. Temporary construction, barricades/fencing;
11. Removal of advertising/promotional materials;
12. Noise levels;

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13. Alcohol consumption;
  14. Any other conditions which the Council deems necessary.
- B. Upon Council approval, the City Clerk Administrator shall issue a permit to the person(s) named in the permit application. The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in three prominent locations during the special event.

**Subsection 158.25 Exceptions to the Permit:** The permit requirement contained in this chapter does not apply to the following:

- A. Special events sponsored and managed by the city;
- B. Funerals and funeral processions;
- C. The grounds of any school, playground, place of worship, hotel conference center, stadium, athletic field, arena, auditorium or similar permanent place of assembly when used for regularly established assembly purposes.

### **Subsection 158.99 Violations and Penalties:**

- A. Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in § 10.99, and their public dance permit is suspended immediately at the time of any arrest or citation for violating this chapter.
- B. Any person who violates any condition of a special event permit or any provision of this chapter shall be guilty of a misdemeanor punishable as prescribed by § 10.99.
- C. Enforcement of this division may, at the Council's discretion, take any of the following forms:
  1. Citation/criminal prosecution;
  2. Injunctions, declaratory judgements or other civil remedies;
  3. Permit revocation;
  4. Disbursement of persons gathered.

**Section 159: Sexually Oriented Businesses**

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Subsection 159.12	Restrictions and regulations
Subsection 159.13	Suspensions and revocation of license
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**Subsection 159.01 Purpose:**

The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually-transmitted diseases. This chapter is intended to supersede the provisions of M.S. § 617.242, as it may be amended from time to time, and render M.S. § 617.242 inapplicable as authorized by the statute.

**Subsection 159.02 Findings:**

The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* (dated June 6, 1989). This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members.

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- A. Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on city crime-prevention programs and law enforcement services.
- B. Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.
- C. Sexually oriented businesses can increase the risk of exposure to communicable diseases, including Acquired Immune Deficiency Syndrome (AIDS), for which there is currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments but also the general public.
- D. Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- E. A licensing and regulatory scheme as prescribed in this chapter can facilitate the enforcement of the city's "anti-blight" regulations, as set forth in Section 153 of this code, and can aid in monitoring sexually oriented businesses for adverse secondary effects on the community.
- F. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

### **Subsection 159.03 Definitions:**

The following words and terms have the following meanings when used in this chapter.

**SEXUALLY ORIENTED BUSINESS.** Shall include the following:

- A. A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:
  - 1. Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;
  - 2. Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or

3. Derives more than 25% of its gross revenues from sexually oriented materials; or
- B. A business that engages for any length of time in a sexually oriented use as defined in this section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

**SEXUALLY ORIENTED MATERIALS.** Visual, printed, or aural materials, and other objects or devices, that:

- A. Contain, depict, simulate or describe specified sexual activities or specified anatomical areas; or
- B. Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities; or
- C. Are designed for sexual stimulation.

**SEXUALLY ORIENTED USE.** Any of the following activities and businesses, even if the activity exists for only a short-time:

- A. **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
- B. **ADULT BOOKSTORE.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of “sexually oriented business,” as defined in this section.
- C. **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:
  1. The depiction of nudity, specified sexual activities or specified anatomical areas; or
  2. The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
- D. **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

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- E. **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- F. **ADULT HEALTH/SPORT CLUB.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- G. **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- H. **ADULT MASSAGE PARLOR/HEALTH CLUB.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- I. **ADULT MINI-MOTION PICTURE THEATER.** A business or establishment with a capacity of less than 50 persons that, as a prevailing practice, presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- J. **ADULT MODELING STUDIO.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
- K. **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- L. **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.
- M. **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in division (1) of the definition of a sexually oriented business as defined in this Section.



- N. **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- O. **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**SPECIFIED ANATOMICAL AREAS.** Shall include the following:

- A. Less than completely and opaquely covered human genitals, pubic area, buttocks, anus, or female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** Shall include the following:

- A. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia;
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- D. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- E. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- F. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

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G. Human excretion, urination, menstruation or vaginal or anal irrigation.

**Subsection 159.04 Exceptions:** This chapter does not regulate the following:

- A. Material with significant literary content or social commentary;
- B. A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;
- C. A person or organization exempted under M.S. § 617.295;
- D. Activity regulated under M.S. § 617.251;
- E. Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license; and
- F. Movies rated G, PG, PG-13, NC-17 or R.

**Subsection 159.05 License Required:** No person may own or operate a sexually oriented business within the city unless the person is currently licensed under this chapter.

**Subsection 159.06 Persons Ineligible:** No license may be issued to a person who:

- A. Is not a citizen of the United States or a resident alien;
- B. Is a minor at the time the application is filed;
- C. Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually oriented business under M.S. § 364.03, Subd. 3, as it may be amended from time to time, or a person not of good moral character and repute;
- D. Holds a liquor license under Minnesota Basic Code Chapter 112.

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- E. In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license;
- F. Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application; or
- G. In the case of an individual, is not a resident of the state; in the case of a partnership, the managing partner is not a resident of the state; or in the case of a corporation, the manager is not a resident of the state. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency may, for good cause, be extended by the licensing authority.

### **Subsection 159.07 Places Ineligible:** No license may be issued for:

- A. A place or a business ineligible for a license under city ordinance or state law;
- B. Operation in a zoning district where the business is not allowed pursuant to Section 153 of this code;
- C. A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or
- D. Operation on a premises on which taxes, assessments or other financial claims of the city or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

### **Subsection 159.08 License Application:**

- A. The application for a sexually oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:
  - 1. The business in connection with which the proposed license will operate;
  - 2. The location of the business premises;
  - 3. The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;

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4. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
5. Whether the applicant is the owner and operator of the business and if not, who is;
6. Whether the applicant has ever used or been known by a name other than his or her true name, and if so, what was the name or names, and information concerning dates and places where used;
7. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
8. Street address at which the applicant and spouse have lived during the preceding ten years;
9. Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;
10. Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;
11. Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;
12. Whether the applicant or spouse has ever been engaged as an employee or in operating a sexually oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;
13. Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;
14. If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners must be designated. The interest of each partner or partners in the business must be submitted with the application and, if the partnership is required to file a certificate as to trade name under the provisions of M.S. Ch. 333, as it may be amended from time to time, a copy of the certificate must be attached to the application;
15. If the applicant is a corporation or other organization, the applicant must submit the

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following:

- a. Name, and if incorporated, the state of incorporation;
  - b. Names and addresses of all officers;
  - c. The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and
  - d. A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.
16. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade, and proof of the source of the money;
  17. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state;
  18. Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;
  19. Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and
  20. Other information that the city deems appropriate.
- B. No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.
  - C. Each licensee has the continuing duty to properly notify the Director of Community Development of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for revocation or suspension of the license.
  - D. The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.

**Subsection 159.09 Fees:**

- A. An applicant for a license must pay to the city the investigation fee specified in the Ordinance Establishing Fees and Charges, adopted pursuant to Subsection 30.11 of this code, as that ordinance may be amended from time to time. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.
- B. The annual fees for a license are set forth in the Ordinance Establishing Fees and Charges, adopted pursuant to Subsection 30.11 of this code, as that ordinance may be amended from time to time.
- C. Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.
- D. No refund of a fee will be made except as authorized by ordinance.

**Subsection 159.10 Granting of Licenses:**

- A. No license may be issued until the Police Department, or the county Sheriff, if the city has no Police Department, has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate this investigation.
- B. No license, except for a renewed license, may be issued for a sexually oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in Section 151 of this code, for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the

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application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

- C. 1. The City Council may issue a license before an investigation, notice and public hearing for an applicant who:
- a. Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;
  - b. Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;
  - c. Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and
  - d. Otherwise qualifies and meets the requirements for a license.
2. In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.
- C. A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.
- D. In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

**Subsection 159.11 Conditions of License:**

- A. A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.
- B. A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.
- C. The license must be posted in a conspicuous place in the premises for which it is used.

**Subsection 159.12 Restrictions and Regulations:** A sexually oriented business is subject to the following restrictions and regulations:

- A. No owner, manager or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- B. No owner, manager or employee may allow a person under the age of 18 to enter the business.
- C. No owner, manager or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch or other means.
- D. No owner or manager may employ a person under the age of 18 on the licensed premises.
- E. No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.
- F. No business may exceed 10,000 square feet in gross floor area.
- G. No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.
- H. A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or



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accept money, a tip, or other item from a member of the audience.

- I. No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
  - 1. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
  - 2. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.
- J. A licensee must not be open for business to the public:
  - 1. Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday; and
  - 2. Between 1:00 a.m. and 12:00 noon on Sundays.

### **Subsection 159.13 Suspensions and Revocations of License:**

- A. *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.
- B. *Violations.*
  - 1. The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in division (B)(2) of this section. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in division (B)(2) of this section.

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2. Conviction of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

C. *Prompt judicial review.* Prompt and final judicial review shall be provided to any applicant or licensee when a license is denied, suspended or revoked.

### **Subsection 159.99 Violations and Penalties:**

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

## **CHAPTER XVII: LAND USAGE**

### ***Chapter Contents***

Section 170: Building Code

Section 171: Zoning Ordinance

Section 172: Procedures for Submission of Plats

Section 173: Annexation and Vacation of Land

### **Section 170: Building Code**

In a separate resolution, the City of Pennock has adopted the Minnesota State Building Code, as amended from time to time.

### **Section 171: Zoning Ordinance**

The Zoning Ordinance is a separate document from the Code of Ordinances. A complete copy of the Zoning Ordinance can be made available by contacting the Pennock City Office.

**Section 172: Procedures for Submission of Plats**

***Section Contents***

Subsection 172.01	General Development Plan
Subsection 172.02	Preplat Investigation
Subsection 172.03	Preliminary Plat
Subsection 172.04	Final Plat

**Subsection 172.01 General Development Plan:** The General Development Plan shall be a scale drawing at any reasonable scale. Basically it shall establish the desired street pattern and general lot layout together with a land use plan. This plan need not be drawn by a registered surveyor or engineer.

**Subsection 172.02 Preplat Investigation:**

- A. A subdivider shall submit six (6) copies of a general development plan to the City Clerk at least ten (10) days before the next regularly scheduled meeting of the Planning Commission.
- B. The Planning Commission shall send a copy of the plan to appropriate reviewing agencies who shall make written comments and recommendations before the aforesaid regular meeting of the Planning Commission.
- C. Within five (5) days following the same regularly scheduled meeting the Planning Commission shall inform the subdivider, in writing, that the plan as submitted or as modified does or does not meet the objectives of this ordinance except that action may be tabled for 45 days pending further investigation.
- D. Specifications for General Development Plan are as follows:
  - 1. scale and north point
  - 2. proposed subdivision name
  - 3. name and address of property owner
  - 4. name and address of subdivider

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5. zoning classification and proposal and adjacent lands
6. names of existing streets
7. general street design
8. general lot layout
9. current use of land and natural features such as wood areas and water bodies and courses

### **Subsection 172.03 Preliminary Plat:**

- A. Upon completing the preplat investigation, the subdivider shall prepare a preliminary plat together with improvement plans and other supplemental material as may be specified by the Planning Commission and its reviewing agencies.
- B. The preliminary plat shall be drawn on suitable tracing paper or other material of suitable quality with black waterproof ink or indelible pencil at a scale not greater than one hundred (100) feet equals one (1) inch unless another suitable scale is approved by the Planning Commission. (Example: One (1) inch equals two hundred (200) feet would be unacceptable.)
- C. Six (6) copies of the preliminary plat and supplementary material shall be submitted to the City Clerk at least ten (10) days before the Planning Commission's next regularly scheduled meeting. The Planning Commission shall send copies to the appropriate reviewing agencies (i.e., county surveyor, utility companies, engineer, township, county planning commission, Department of Natural Resources, etc.) which shall review and submit written comments and recommendations before the next regular meeting of the Planning Commission.
- D. Following review of the preliminary plat and supplementary materials submitted for conformity thereof to this ordinance, and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements made by him, the Planning Commission shall, within forty-five (45) days, act thereon as submitted or modified and, if approved, the Planning Commission shall express its approval and state the conditions of approval, if any, or, if disapproved, shall express its disapproval and its reasons therefore. Any plan given conditional approval shall be revised to meet the requirements of conditions and six (6) copies shall be resubmitted.
- E. The action of the Planning Commission shall be noted on three (3) copies of the approved preliminary plat, referenced and attached to any conditions determined. One (1) shall be

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returned to the surveyor, one (1) shall be retained by the Planning Commission and the other shall be transmitted to the City Council within five (5) days from the date of the Planning Commission's action.

- F. Approval of a preliminary plat shall not constitute approval of the final plat. Approval of a preliminary plat is hereby limited to a period of twelve (12) months, after which time the subdivider is required to resubmit a preliminary plat to give the Planning Commission an opportunity to assess any changes in the general area or any regulation, ordinance or statute changes that may be applicable.
- G. Specifications for Preliminary Plat are as follows:
  - 1. date, scale, north point
  - 2. proposed subdivision name and all intended street names according to the municipality's street naming and numbering system
  - 3. name of subdivider, surveyor and engineer preparing plat
  - 4. topographic map of the area showing two (2) foot contour intervals or spot elevations. All areas of the subdivision to be platted with a slope greater than twenty-five (25) percent must be clearly indicated.
  - 5. location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land
  - 6. zoning classification of lands to be subdivided and all adjacent lands
  - 7. location, widths and names of all existing, platted or dedicated streets, easements, railroad and utility rights-of-way, parks, water courses, drainage ditches, front, side and rear yard dimensions for all permanent buildings and structures
  - 8. location, size and depth of all sanitary sewer, storm sewers and water mains and existing location of all water hydrants, water mains and catch basins
  - 9. other data within three hundred (300) feet of the exterior boundaries of the area being subdivided as may be required by the Planning Commission
  - 10. water elevations of adjoining lakes, rivers and streams at date of survey and their approximate high and low water elevations when available

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11. when the subdivision borders a lake, river, stream, or drainage way, the contour line four (4) feet above the indicated high water elevation of said lake, river, stream or drainage way shall be shown on the plat
  12. the layout and width of all new streets, rights-of-way and easements and the approximate angles of street intersections
  13. length and bearings of the exterior boundaries of the land being subdivided
  14. dimensions of all lots to the nearest foot
  15. square footage of all lots
  16. all lots shall be numbered by beginning the numbering with number one and numbering each lot progressively, through the block in which they are situated. All blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another and one lot plats should have both a lot and block number.
  17. approximate radii of all curves and lengths of all tangents.
  18. approximate location and area of all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development with a statement of the conditions of such dedication or reservation.
  19. Such other information as the Planning Commission may determine is necessary.
- H. The preliminary plat shall be reviewed by the City Council at its first regular meeting after being received from the Planning Commission and shall be approved by the City Council before the final plat can be approved by the Planning Commission.

### **Subsection 172.04 Final Plat:**

- A. The final plat shall conform substantially to the preliminary plat as approved and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which is proposed to be recorded and developed at this time; provided, however, that such portion conforms to all requirements of this ordinance.

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- B. Application for approval of the final plat shall be submitted in writing to the Planning Commission at least ten (10) days prior to the meeting at which it is to be considered.
- C. Four (4) copies of the final plat and other supplemental data required for approval shall be prepared and submitted to the Planning Commission within twelve (12) months after approval of a preliminary plat. These four (4) copies shall be paper prints and are not required to be signed per Subdivision 4, items p, q, r, s and t. However, the map to be filed must contain the signature of the authorized representatives of the applicable governmental agencies.
- D. Specifications for final plat are as follows:
  - 1. date, scale, north point
  - 2. subdivision name and all street names
  - 3. location of the plat by quarter-quarter section, section, town and range
  - 4. location and names of adjacent subdivisions
  - 5. exact location, widths and names of all existing platted or dedicated streets, easements, railroad and utility rights-of-way, parks, water courses and drainage ditches within the boundaries of the land to be subdivided
  - 6. water elevations of adjoining lakes, rivers and streams at date of the survey and their approximate high and low water elevations shall refer to the established United States Coast and Geodetic Survey and/or United States Geodetic Survey Datum or other sources when available.
  - 7. when the subdivision borders a lake, river or stream the contour line four (4) feet above the indicated high water elevation of said lake, river or stream shall be shown on the plat
  - 8. exact location and width of all new streets, their angle of intersection, length of arcs, radii, points of curvature and tangent bearings
  - 9. exact location and width of all easements, and a statement of easement rights
  - 10. exact length of bearings or angles of the exterior boundaries of the land being subdivided.



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11. exact dimensions of all lots
12. all lots shall be numbered by beginning the numbering with the number one and numbering each lot progressively, through the block in which they are situated. All blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another. One lot plats shall have both a lot and block number.
13. exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to the Public".
14. accurate location and material of all permanent reference monuments including lot corners. (Monument size shall be an iron rod or stake at least 1/2" in diameter by 15" in length and set in concrete.)
15. certificate of the registered land surveyor preparing the plat, that the plat as presented, fully complies with the requirements of this ordinance, and the platting laws of the State of Minnesota relative to the surveying, dividing and mapping of land; that the plat is a correct representation of all exterior boundaries of the land surveyed; that the plat represents a survey made by him and that all monuments indicated thereon exist and their location, size and material are correctly shown
16. a certificate issued by the authorized county officials stating that there are no unpaid taxes or special assessments on any of the lands included in the plat
17. a certificate by the owner or owners dedicating to the public for full public use all street and street rights-of-way and other lands designated as "Dedicated for the Public's Use" and the granting of utility easements as shown on the plat
18. a certificate of Planning Commission approval signed by the chairman of the Planning Commission
19. a certificate of approval by the City Council signed by the Mayor and Clerk
20. the final plat prior to presentment to the Council shall be reviewed and endorsed as approved by the County Surveyor

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21. the final plat upon its submission to the Council shall be accompanied by a written title opinion by an attorney at law naming therein the fee owners and other persons or entities having legal or equitable interest in the real estate affected, that necessary parties have joined in the plat and that the title thereto is good and merchantable
  22. that a final plat upon such approval by the Council shall thereafter be forthwith tendered to the County Recorder for its permanent entry upon the records of the county.
- E. The City Council may hold a public hearing on the final plat and advertise the purpose, time, date and place of the public hearing at least once in the official newspaper not less than ten (10) days before the day of the public hearing.
  - F. The final plat for recording after approval by the Planning Commission and City Council shall be drawn on muslin backed white paper, mylar or other suitable material with black waterproof ink. The final plat shall measure thirty (30) inches in length and twenty (20) inches in width with a border line of two (2) inches provided on the left side of the thirty (30) inch length and a border of one-half (1/2) inch provided on the other three (3) sides. When more than one sheet is required for any plat, each sheet shall be numbered consecutively and shall contain a notation of the total number of sheets, i.e., 2 of 3. The final plat shall be drawn to a scale not greater than one hundred (100) feet to the inch. (Example: one (1) inch equals two hundred (200) feet would be unacceptable.)
  - G. Street, sewer and water plans and profiles shall be drawn with black ink on standard highway plan and profile linen or a comparable substitute. Street plans and profiles shall be drawn to a scale not greater than one (1) inch equals one hundred (100) feet horizontally and one (1) inch equals ten (10) feet vertically, and shall show original and proposed centerline elevations, all curve data, street orientation, typical cross section for each street and surface drainage, information in areas of cut or fill. Three copies of the street, sewer and water plan and profile shall be submitted with the final subdivision map.
  - H. The final plat shall be recorded within twelve (12) months from the date of approval by the governing body. Failure to record within twelve months from the date of approval necessitates resubmitting the subdivision for approval by both the Planning Commission and the City Council.

**Section 173: Annexation and Vacation of Land**

***Section Contents***

Subsection 173.01	Minnesota Statutes, Chapter 414 Adopted by Reference
Subsection 173.02	Annexation 83-1
Subsection 173.03	Annexation 81-4

**Subsection 173.01 Minnesota Statutes, Chapter 414 Adopted by Reference:** The City Council does hereby adopt Minnesota Statutes, Chapter 414 and all of its amendments and revisions to regulate annexation proceedings by the City.

**Subsection 173.02 Annexation 83-1 (*Official Copy is Filed with the City Clerk*):**

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF PENNOCK, A MUNICIPAL CORPORATION OF THE STATE OF MINNESOTA, TO INCLUDE CERTAIN LANDS NOT EXCEEDING 200 ACRES. (81-3)

WHEREAS, a petition has been filed with the governing body of the City of Pennock, a municipal corporation of the State of Minnesota, by the sole owners having an interest therein, to have certain real property hereinafter described included within the limits of the City of Pennock, Minnesota, and

WHEREAS, it is proposed to annex by virtue hereof to the said City of Pennock, said property, all of which said property is in Kandiyohi County, State of Minnesota, and

WHEREAS, the said property to be annexed consists of approximately 14.3 acres, more or less, described as follows, to-wit:

All that part of the Southeast Quarter (SE 1/4) of Section Nineteen (19), Township One Hundred Eighteen (118) North, Range Thirty-six (36) West of the 5<sup>th</sup> Principal Meridian in Kandiyohi County described as follows, to-wit:

Beginning on the East line of said Section Nineteen (19) a distance of 417.40 feet bearing South of the Northeast corner of the Southeast Quarter (SE 1/4) of said Section Nineteen (19); thence S 87°50' W parallel the North line of the Southeast Quarter (SE 1/4) of said Section Nineteen (19) for 563.00 feet; thence South parallel the East line of said Section

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Nineteen (19) for 1190.00 feet; thence N 87°50' E for 563.00 feet to the East line of said Section Nineteen (19); thence North 1,190.00 feet to the point of beginning; ALSO

All that part of the Southeast Quarter (SE 1/4) of Section Nineteen (19), Township One Hundred Eighteen (118) North, Range Thirty-six (36) West of the 5<sup>th</sup> Principal Meridian in Kandiyohi County described as follows, to-wit:

Beginning on the East line of said Section Nineteen (19) a distance of 417.40 feet bearing South of the Northeast corner of the Southeast Quarter (SE 1/4) of said Section Nineteen (19), thence S 87°50' W parallel the North line of the Southeast Quarter (SE 1/4) of said Section Nineteen (19) for 563.00 feet to the point of beginning; thence continuing S 87°50' W parallel the North line of the Southeast Quarter (SE 1/4) of said Section Nineteen (19) for 60.00 feet; thence N 87°50' E for 475.00 feet; thence North 60.00 feet to the point of beginning.

NOW, THEREFORE, the City Council of the City of Pennock hereby determines, ordains and declares as follows:

SECTION 1: Best Interest of the City of Pennock and Area to be annexed. That the annexation will be to the best interest of the City of Pennock, Minnesota, and of the territory affected.

SECTION 2: Abuts on City Limits. That the property above described abuts on the City limits, and is so conditioned as property to be subject to City government.

SECTION 3: Annexation. That the said property is hereby annexed to, and included within, the City of Pennock, Minnesota, as effectually as if it had originally been a part thereof.

SECTION 4: Effective Date. This ordinance shall be filed and shall take affect and be in full force and effect from and after filing a certificate thereof with the Minnesota Municipal Board, the County of Kandiyohi, Minnesota, the Town Clerk of the Township of Edwards, County of Kandiyohi, State of Minnesota, and the Secretary of State of the State of Minnesota, and from and after its passage and publication.

This ordinance introduced by councilman \_\_\_\_\_

This ordinance introduced on \_\_\_\_\_

This ordinance given a hearing on \_\_\_\_\_

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This ordinance adopted on \_\_\_\_\_

This ordinance published on \_\_\_\_\_

\_\_\_\_\_  
Kevin Crowley, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Dawn Johnson, City Administrator/Clerk-Treasurer

**Subsection 173.03 Annexation 81-4 (*Official Copy is Filed with the City Clerk*):**

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF PENNOCK,  
A MUNICIPAL CORPORATION OF THE STATE OF MINNESOTA, TO INCLUDE  
CERTAIN LANDS OWNED BY THE CITY OF PENNOCK. (81-4)

WHEREAS, it is proposed that certain property owned by the City of Pennock be annexed to the City of Pennock, and

WHEREAS, the said property to be annexed consists of approximately one acre, more or less, and is situated in the County of Kandiyohi, State of Minnesota, and is legally described as follows, to-wit:

All that part of the Southeast Quarter of Section 19, Township 118 N, Range 36 W, of the 5<sup>th</sup> Principal Meridian in Kandiyohi County, MN, described as follows, to-wit: Commencing at the Northeast corner of the Southeast Quarter of said Section 19; thence bearing South along the east line of said Section 19 for 477.44 feet; thence South 87° 50' West parallel the north line of the Southeast Quarter of said Section 19 for 764.14 feet to the point of beginning; thence South 202.55 feet; thence south 87° 50' West for 215.06 feet, more or less, to the east line of Fifth Street extended, as platted and of record; thence North 202.55 feet along the east line of Fifth Street extended; thence North 87° 50' East for 215.06 feet to the point of beginning, containing one acre, more or less.

NOW, THEREFORE, the City Council of the City of Pennock hereby determines, ordains and declares as follows:

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SECTION 1. Best Interest of the City of Pennock and Area to be annexed. That the annexation will be to the best interest of the City of Pennock, Minnesota, and of the territory affected.

SECTION 2. Abuts on City Limits. That the property above described abuts on the City limits, and is so conditioned as property to be subject to City government.

SECTION 3. Owned by the Municipality. That the said property is presently owned by the City of Pennock.

SECTION 4. Annexation. That the said property is hereby annexed to, and included within, the City of Pennock, Minnesota, as effectually as if it had originally been a part thereof.

SECTION 5. Effective Date. This ordinance shall be filed and shall take affect and be in full force and effect from and after filing a certificate thereof with the Minnesota Municipal Board, the County of Kandiyohi, Minnesota, the Town Clerk of the Township of Edwards, County of Kandiyohi, State of Minnesota, and the Secretary of the State of the State of Minnesota, and from and after its passage and publication.

This ordinance introduced by councilman \_\_\_\_\_

This ordinance introduced on \_\_\_\_\_

This ordinance given a hearing on \_\_\_\_\_

This ordinance adopted on \_\_\_\_\_

This ordinance published on \_\_\_\_\_

\_\_\_\_\_  
Kevin Crowley, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Dawn Johnson, City Administrator/Clerk-Treasurer