

**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. ANIMALS**

**91. FIRE PROTECTION AND PREVENTION**

**92. PUBLIC NUISANCES**



## CHAPTER 90: ANIMALS

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### § 90.01 DEFINITIONS.

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

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

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

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

**DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, **DOMESTIC ANIMALS** shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians and other similar animals.

**FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, **FARM ANIMALS** shall include members of the equestrian

family (donkeys, horses, mules), bovine family (buffalo, cows, bulls), sheep, poultry (guinea hens, chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, llamas, bees and other animals associated with a farm, ranch or stable.

***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 de-scented), 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; and
- (6) Any other animal which is not explicitly listed above, but which can be reasonably defined by the terms of the sections, including, but not limited to, bears, deer, monkeys and game fish.

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

(Ord. 102, passed 1-3-2012)

## **§ 90.02 DOGS AND CATS; RUNNING AT LARGE; VACCINATIONS.**

(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 (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). A person who owns, harbors or keeps a dog or cat that 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) *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's Clerk-Treasurer or the animal control authority, 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's Clerk-Treasurer or animal control authority. Failure to do so shall be deemed a violation of this section.

(Ord. 102, passed 1-3-2012) Penalty, see § 10.99

**§ 90.03 IMPOUNDING ANIMALS.**

(A) *Running at large.* Any animal running at large is hereby declared a public nuisance. Any animal control authority may impound any animal found running at large and shall give notice of the impounding to the owner of the animal, if known. In case the owner is unknown, the animal control authority shall post notice at the city office that if the animal is not claimed within the time specified in division (C) below, it will be sold or otherwise disposed of.

(B) *Biting animal.* 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 to a 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 payment of all costs by the owner. 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 animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least seven regular business days, including if the animal is dangerous; in which case, it shall also be kept for seven regular business days 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 maintenance costs, as provided at the pound, per day or any part of day while animal is in the pound; and

- (2) With the required valid certificate of vaccination for rabies and distemper shots.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) below, if the animal has not been reclaimed in accordance with the provisions of this section, the animal control authority appointed to enforce this section may let any person claim the animal by complying with all provisions in this section or the animal control authority 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's Clerk-Treasurer.

(Ord. 102, passed 1-3-2012)

#### § 90.04 KENNELS.

(A) *Definition of "kennel".* The keeping of four 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 four 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 four 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.

(Ord. 102, passed 1-3-2012) Penalty, see § 10.99

#### § 90.05 NUISANCES; DANGERS TO HEALTH AND SAFETY.

(A) (1) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. **HABITUAL BARKING, YELPING OR CRYING** shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption, or repeated intervals of barking for a period of 30 minutes or more with no more than five minutes of interruption between barking intervals. The barking must also be audible off of the owner's or caretaker's premises.

(2) *Damage to property.* It shall be unlawful for any person's animal to damage any lawn, garden or other property, whether or not the owner has knowledge of the damage.

(3) *Cleaning up litter.* The owner of any animal or person having 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 his or her own property, on the property of others or on public property.

(4) *Other.* Any animal kept contrary to this section is subject to impoundment.

(B) If, in the reasonable belief of any person or animal control authority, an animal presents an immediate danger to the health and safety of any person, the animal is threatening imminent harm to any

person or the animal is in the process of attacking any person, the person or animal control authority may destroy the animal in a proper and humane manner. Otherwise, the person or animal control authority may apprehend the animal and deliver it to the pound for confinement. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper.

(Ord. 102, passed 1-3-2012) Penalty, see § 10.99

#### **§ 90.06 SEIZURE OF ANIMALS.**

Any animal control authority may enter upon private property and seize any animal; provided that, the following exist:

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

(B) The animal control authority reasonably believes that the animal meets either the barking dog criteria, the criteria for cruelty or the criteria for an at large animal;

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

(E) The seizure will not involve the forced entry into a private residence;

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

(Ord. 102, passed 1-3-2012)

#### **§ 90.07 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 that is diseased so as to be a danger to the health and safety of the city, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined in the pound by any person or animal control authority. The animal control authority 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 animal control authority 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.

(Ord. 102, passed 1-3-2012) Penalty, see § 10.99

#### **§ 90.08 DANGEROUS ANIMALS.**

This section hereby adopts County Ord. 69-2010, adopting Ch. 92, Dangerous and Potentially Dangerous Dog Ordinance, and amending the county's fee schedule in its entirety.

(Ord. 102, passed 1-3-2012)

#### **§ 90.09 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.

(B) Any person not treating his or her pet in a humane manner will be subject to penalties.

(Ord. 102, passed 1-3-2012) Penalty, see § 10.99

#### **§ 90.10 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.

(Ord. 102, passed 1-3-2012)

#### **§ 90.11 INTERFERENCE WITH ANIMAL CONTROL 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 animal control authority in the discharge of his or her duties under this chapter.

(Ord. 102, passed 1-3-2012) Penalty, see § 10.99

**§ 90.12 LIVESTOCK.**

The owning, keeping, breeding, raising, maintaining, selling or buying of livestock in the city is prohibited in all areas, except within the Agricultural (A) District.  
(Ord. 76, passed 10-16-2002) Penalty, see § 10.99



## CHAPTER 91: FIRE PROTECTION AND PREVENTION

### Section

- 91.01 Fire limits
- 91.02 Unsafe buildings; removal or repair
- 91.03 Inspections
- 91.04 Electrical installations
- 91.05 Administrative fee

### § 91.01 FIRE LIMITS.

The following shall be and is hereby declared to be the fire limits area: Block 4; Block 5; Block 6; and Block 7.

(Ord. 37, passed 3-20-1961)

### § 91.02 UNSAFE BUILDINGS; REMOVAL OR REPAIR.

A building or structure or part thereof declared structurally unsafe or hazardous by a duly constituted authority may be restored to safe condition; provided that, if the damage or cost of restoration and re-construction is in excess of 50% of the value of the building or structure, the building or structure, if re-constructed or restored, shall be made to conform to the requirements for building and structures contained in this chapter.

(Ord. 37, passed 3-20-1961) Penalty, see § 10.99

### § 91.03 INSPECTIONS.

(A) It shall be the duty of the State Building Inspector to inspect or cause to be inspected, not less than four times a year, all buildings and premises, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire.

(B) Whenever the inspector shall find in any building or upon any premises or other place, combustible or explosive matter or dangerous accumulation of rubbish, or any highly flammable materials, and so situated as to endanger property, he or she shall order the same to be removed or remedied.

(Ord. 37, passed 3-20-1961)

**§ 91.04 ELECTRICAL INSTALLATIONS.**

All electrical wiring, apparatus or appliances for furnishing light, heat or power shall be in strict conformity with the statutes of the state and with approved methods of construction for safety to life and property. The regulations in the Minnesota Electrical Code shall be prima facie evidence of the approved methods.

(Ord. 37, passed 3-20-1961) Penalty, see § 10.99

**§ 91.05 ADMINISTRATIVE FEE.**

An administrative fee with an annual review and adjustments shall apply to any person, who shall violate a provision of this chapter or fail to comply therewith, shall severally for each and every violation and non-compliance forfeits and pay a penalty not to exceed the sum of \$25. The violation shall be remedied within a reasonable time and each ten days that the violation is permitted to exist shall constitute a separate offence.

(Ord. 37, passed 3-20-1961)

## CHAPTER 92: PUBLIC NUISANCES

### Section

#### *General Provisions*

- 92.01 Public nuisance defined
- 92.02 Public nuisances affecting health
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#### *Abandoned, Disabled or Unlicensed Vehicles*

- 92.20 Intent, nuisance and prohibitions
- 92.21 City authorized to impound
- 92.22 Impound facility
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- 92.35 Definitions
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### **GENERAL PROVISIONS**

#### **§ 92.01 PUBLIC NUISANCE DEFINED.**

Whoever, by their 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 allows a condition which unreasonably annoys, injures or endangers the safety, health, comfort or rest of any considerable number of members of the public; or

(B) Interferes with, obstructs or renders dangerous for passage, any public highway or right-of-way; and/or

(C) Is guilty of any other act or omission declared by law or this chapter to be a public nuisance and for which no sentence is specifically provided.

(Ord. 91, passed 6-19-2007) Penalty, see § 10.99

## § 92.02 PUBLIC NUISANCES AFFECTING HEALTH.

(A) The following are hereby declared to be nuisances affecting health:

(1) Allowing, keeping, maintaining, causing, suffering or permitting any type of waste, including garbage, refuse, rubbish, decayed animal or vegetable matter, animal carcasses, rotting lumber, barrels, cans, bottles, tubes, buckets, detached tires or other artificial containers or any other material, including discarded or unused machinery and appliances in which flies, mosquitoes, insects, rats or other vermin may breed, or which is a fire, health or safety hazard;

(2) Accumulations of manure, refuse or other debris or garbage; garbage cans or bags 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;

(3) A pond or pool of foul or stagnant water;

(4) The pollution of any public well, stream or other body of water through the discharge of sewage, industrial waste or other pollutants;

(5) Dense smoke, noxious fumes, gas and soot, cinders or other airborne pollutants, so as to bring discomfort to persons coming in contact with the pollutants;

(6) Grass and/or weeds which have grown upon any property to a height of six or more inches. Overgrown, uncontrolled vegetation, shrubs, trees and vines that are conducive to the accumulation of refuse, debris or the harborage of vermin;

(7) Conditions which, in the opinion of the enforcement officer and as consistent with public health practices, are conducive to the harborage or breeding of vermin;

(8) Any truck, railroad car or other vehicle standing on or along any street, highway, railroad track or other property within the city, carrying or containing any refuse, noxious substance or hazardous waste;

(9) A building or structure within the city infested with rats or other vermin;

(10) No burying of garbage, trash or waste of any kind in the ground at any location other than a legally designated disposal area;

(11) No burning of garbage, trash or waste; and

(12) Building materials may be kept outside of an enclosed structure for a maximum of 30 days following the expiration of a building permit for which the material has been acquired.

(B) For the purpose of this section, *JUNK* is defined as any material or substance which does not serve, nor is it intended to serve any useful purpose or the purpose for which it was originally intended; (Ord. 91, passed 6-19-2007) Penalty, see § 10.99

**§ 92.03 PUBLIC NUISANCES AFFECTING PEACE, SAFETY AND AESTHETICS.**

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

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

(B) All unnecessary noises and annoying vibrations which unreasonably annoy or disturbs the peace of any considerable number of members of the public;

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

(D) Satellite dishes, radio aerials or television antennas erected or maintained in a dangerous manner;

(E) All hanging signs, awnings and other similar structures overhanging streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained in a safe manner;

(F) 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 thus causing an unsafe condition;

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

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

(I) In agricultural or residential districts, storage in the open of discarded or disused machinery, tires, household appliances or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation amount the items so accumulated, or in a manner creating fire, health or safety hazards;

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

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

(L) 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;

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

(N) Junk equipment shall include any equipment, such as farm equipment and other machinery, all terrain vehicles, snowmobiles, motorcycles, lawnmowers, snow blowers and all other machinery or equipment empowered by a motor and shall include any part of machinery or equipment which is stored in the open, which is not currently licensed for use on highways in the state or is not required to be license or is either unusable or inoperable for any reason, or anything that is being retained on the property for salvageable parts;

(O) Exterior of structures and any accessory structure shall be maintained in a workmanlike state of maintenance and repair. Every exterior wall shall be free from holes, breaks, loose or rotting boards or timbers, falling or loose stucco or substantial amounts of peeling paint. All doors and windows shall be maintained in good repair, fit reasonably well within their frames and be free of open breaks or holes;

(P) Interior area of structures shall be maintained in a clean and sanitary condition, free of accumulations of garbage, refuse, infestations of noxious insects, rodents and other pests. All plumbing systems shall be properly installed, connected and maintained in good working order and must be kept free of obstructions, leaks and defects. The storage of excessive or unreasonable amounts of hazardous, flammable liquids shall be prohibited in areas not zoned for such use;

(Q) Storage of boats, campers, trailers and other recreational related items will not be allowed to stand in one area for more than six months, they must be currently licensed and must be parked on crushed rock, cement or blacktop pad;

(R) In any area of the city, the existence of a structure which because of fire, wind, natural disaster or physical deterioration is no longer suitable as a dwelling, not useful for any other purpose for which it was intended; and

(S) In any area of the city, the existence of a vacant structure or building is kept securely locked, windows kept glazed or neatly boarded up or otherwise protected to prevent entrance by vandals, children or other persons.

(Ord. 91, passed 6-19-2007) Penalty, see § 10.99

§ 92.04 ABATEMENT.

(A) In all cases of nuisances, the City Clerk-Treasurer, or his or her designee, shall cause a written notice to be served upon the person or entity that maintains, operates or permits a nuisance. The notice shall be substantially as follows:

<b>NOTICE TO ABATE NUISANCE</b>
City of New Germany to _____ .
You are hereby notified that the nuisance maintained, operated or permitted to exist by you located at _____ and consisting of _____ must be abated by the (removal)(destruction)(discontinuance) of the same and that if you do not comply with this notice, you are directed to appear before the undersigned at the New Germany City Hall on _____, 20____, at _____ o'clock a.m./p.m. to show cause why the same should not be abated. If you fail to appear, the undersigned will take the necessary steps to abate the nuisance. The costs of abatement incurred by the city shall be assessed against you, and a lien may be imposed on the property to secure the payment, in addition to any other remedies available to the city.
Dated this _____ day of _____, 20____ .
_____ Title of Signer
A copy of the foregoing notice was served on _____ on the _____ day of _____, 20____ .
By _____ (describe manner or service) _____ .
_____ Name of Server

(B) If the person or entity cannot be found, then a copy of the notice may be served by delivery to any member of the family or upon an office or agent of the entity over 18 years of age and found on the premises described in the notice or at the residence of the person named therein and, if service cannot be had in such manner, then by posting a copy in some conspicuous place on the premises or entity at the last known address.

(C) At the same time and place specified in the notice, the City Clerk-Treasurer, or his or her designee, shall hear the matter. The person or entity so complained of shall have the right to appear in person or by counsel. At the conclusion of the hearing, the City Clerk-Treasurer, or his or her designee, may vacate the notice or may declare the condition to be a nuisance and order it abated summarily.

(D) In all cases where the City Clerk-Treasurer, or his or her designee, shall have determined, after hearing or notice of hearing and default, that any nuisance shall be abated, he or she shall issue an order

requiring the abatement of the nuisance within a time named in the order, and shall serve the order of abatement upon the person or entity who maintains, operates or permits the nuisance. In the event the nuisance is not abated by the party within the time provided in the order, the City Clerk-Treasurer, or his or her designee, shall cause the nuisance to be abated.

(E) Any person aggrieved by an order of abatement may appeal the order to the City Council. An appeal shall be taken within ten days from the date of service of the order of abatement by filing with the City Clerk-Treasurer a notice of appeal which shall specify the grounds of appeal. The matter shall be placed on the City Council's next regularly scheduled meeting for a public hearing. An appeal stays all proceedings in furtherance of the action appealed from.

(F) The City Council may reverse or affirm, in whole or in part, or may modify, the order of abatement and may issue an order, requirement, decision or determination as is consistent with city ordinances.

(G) Any person or entity who fails to remove and abate any nuisance after proper notice, the opportunity to be heard, and final order shall be liable to the city for all expense incurred in the removal and abatement of the nuisance. The city shall have the right to recover all costs and a lien may be imposed upon the property to secure payment of the costs. The procedure for establishing the lien shall be in accordance with M.S. § 429.101, as it may be amended from time to time.

(H) (1) In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (B) and (C) above will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement and abate the nuisance.

(2) To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The enforcement 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 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 divisions (B) through (G) above, and may order that the nuisance be immediately terminated or abated.

(3) If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(I) Nothing in this chapter 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.

(Ord. 91, passed 6-19-2007)

**§ 92.05 RECOVERY OF COSTS.**

(A) *Personal liability.* The owner of premises on which the city has abated a nuisance shall be personally liable to the city for the cost of the abatement, including administrative costs. When the abatement is complete and the cost is determined, the City Clerk-Treasurer or other official designated by the Council shall prepare a bill and mail it to the owner. The amount shall be due immediately and payable at the office of the City Clerk-Treasurer.

(B) *Assessment.* If the public nuisance is a 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-infested trees, any unpaid charges for the cost of eliminating the nuisance may be collected by the city as a special assessment.  
(Ord. 91, passed 6-19-2007)

***ABANDONED, DISABLED OR UNLICENSED VEHICLES*****§ 92.20 INTENT, NUISANCES AND PROHIBITIONS.**

(A) *Legislative intent.* The unsheltered storage of old, unused, stripped or junked automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, equipment, junk or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance and dangerous to the public health and safety. The unsheltered storage of these property items throughout the city tend to impede traffic in the streets, interfere with the enjoyment of and reduce the value of private property, invite plundering, create fire hazards and other safety and health hazards to children as well as adults, interfere with the comfort and well-being of the public and create, extend and aggravate urban blight. As such, the City Council determines that, in order to protect the public health, safety and welfare, such conditions must be regulated, abated or prohibited.

(B) *Nuisance on private property.* The unsheltered storage of old, unused, stripped or junked automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, equipment, junk or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance.

(1) Nothing in this section shall restrict the activities of duly established junk or salvage yards. This section does not apply to vehicles or property in an enclosed building, on the premises of a business enterprise operated in a lawful manner when necessary to the operation of the business enterprise or in a storage or depository maintained in a lawful location and manner by the city.

(2) For purposes of this section, **JUNK** shall mean worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, tools, discarded building materials, tin cans, broken glass, broken furniture, mattresses, box springs, boxes, crates, cardboard, pallets, tires or any other unsightly debris the accumulation of which has an adverse effect upon neighborhood or city property value, health, safety or general welfare.

(C) *Abandoned motor vehicles.*

(1) No person shall place, park, permit to remain, store or leave upon an open space area of any premises located anywhere in the city any motor vehicle unless it conforms with all of the following requirements:

- (a) The vehicle must have affixed to it a valid current motor vehicle license;
- (b) The vehicle must not lack essential parts rendering it inoperable;
- (c) The vehicle must not be in a rusted, wrecked, partially dismantled or junked condition;

and

(d) The vehicle must be parked on a surface consisting of crushed rock, cement or blacktop.

(2) If a motor vehicle fails to meet any of the above requirements, the owner or possessor of the motor vehicle shall be responsible to remove the motor vehicle to a duly licensed junk yard or other authorized place of deposit or storage within ten working days of a demand by the city.

(3) For purposes of this section, **MOTOR VEHICLE**” means every vehicle which is self-propelled.

(Ord. 91, passed 6-19-2007) Penalty, see § 10.99

### **§ 92.21 CITY AUTHORIZED TO IMPOUND.**

If notice is given by the city pursuant to § 92.20(C)(1)(d) of this chapter, and the vehicle has not been removed in the required ten-day period, then the city may proceed to impound the vehicle under this chapter and to dispose of it according to the procedures in §§ 92.22 through 92.25 of this chapter. (Ord. 91, passed 6-19-2007)

### **§ 92.22 IMPOUND FACILITY.**

The City Council shall designate a storage facility as the impound facility. The place shall be reasonably safe from theft and vandalization. The city may contract with any individual or corporation

for the use of such a facility as the designated facility. All costs of removal to and storage at the designated facility shall be the responsibility of the registered owner of the motor vehicle impounded. (Ord. 91, passed 6-19-2007)

**§ 92.23 NOTICE.**

(A) When a motor vehicle is impounded under this chapter, as an abandoned, junk or unauthorized vehicle, the city 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 vehicle, if easily obtained, and the place where the vehicle is being held; and

(2) Inform the owner and any lien holders of an abandoned, junk or unauthorized vehicle of their right to reclaim the vehicle and contents. The notice shall also state that failure to exercise that right shall be deemed as a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to this section.

(B) The notice for abandoned, junk or unauthorized vehicles shall be sent by mail to the registered owner, if any, and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

(Ord. 91, passed 6-19-2007)

**§ 92.24 RIGHT TO RECLAIM.**

(A) The owner or any lien holder of an abandoned, junk or unauthorized vehicle shall have the right to reclaim the vehicle upon payment of towing and storage charges resulting from taking the vehicle into custody within 20 days after the day of the notice.

(B) Nothing in this section shall be construed to impair any lien of a garage keeper under the laws of the state, or the right of a lien holder to foreclose. For the purposes of this section, **GARAGE KEEPER** 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.

(Ord. 91, passed 6-19-2007)

**§ 92.25 DISPOSAL OF UNCLAIMED MOTOR VEHICLE BY PUBLIC SALE.**

(A) An abandoned, junk or unauthorized motor vehicle and contents taken into custody and not reclaimed under § 92.24 of this chapter shall be sold to the highest bidder at public auction or sale,

following the expiration of the reclamation period for the vehicle. The purchaser shall be given a receipt in a form prescribed by the Register 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.

(B) From the proceeds of the sale of an abandoned, junk 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 pursuant to this section. Any remainder from the sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the General Fund of the city.

(C) When no bid has been received for an abandoned, junk or unauthorized vehicle, the city may dispose of it in compliance with state law.

(D) (1) The city may contract with a qualified person for the collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned, junk or unauthorized vehicles and other scrap metal for recycling or other methods of disposal.

(2) Where the city enters into a contract with a person duly licensed by the state's Pollution control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency.

(3) Where the city enters into a contract with a person duly authorized by the state's Pollution Control agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal for the purpose of obtaining reimbursement.

(3) (a) If the city utilizes its own equipment and personnel for disposal of the abandoned, junk or unauthorized vehicles, it shall be entitled to reimbursement for the cost thereof along with its other costs, as herein provided.

(b) However, the city may dispose of no more than five vehicles using its own resources without advertising for or receiving bids for the disposal in any 120-day period.

(E) (1) No employee of the city who is a member of the administrative staff, department head, a member of the Council or an advisor serving the city in a professional capacity, may be a purchaser of a vehicle under this section. Other city employees may be purchasers, if they are not directly involved in the sale, if they are the highest bidder, and if at least one week's published or posted notice of sale has been given.

(2) It is unlawful for any person to be a purchaser of a vehicle under this section if the purchase is prohibited by the terms of this section.

(Ord. 91, passed 6-19-2007) Penalty, see § 10.99

***NOISE*****§ 92.35 DEFINITIONS.**

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

***L10 LEVEL.*** The noise level, expressed in decibels (dBA), which is exceeded 10% of the time within a one-hour period, as measured by test procedures using a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute (ANSI).

***L50 LEVEL.*** The noise level, expressed in decibels (dBA), which is exceeded 50% of the time within a one-hour period, as measured by test procedures using a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute (ANSI).

(Ord. 95, passed 8-6-2008)

**§ 92.36 NOISE PROHIBITED.**

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

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

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

(Ord. 95, passed 8-6-2008) Penalty, see § 10.99

**§ 92.37 RECEIVING LAND USE STANDARDS.**

(A) No person shall operate, cause, or permit to be operated any source of noise in such a manner as to create a noise level, which exceeds those limits set in Table 1 for the receiving land use category specified when measured at or within the property line of the receiving land use district. The sound level within any particular zoning district shall be the responsibility of the person who owns, operates, or contributes to the sound level, regardless of the zoning district in question.

<i>Table 1: Sound Levels by Receiving Land Use Districts</i>				
	<i>Day (7:00 a.m. - 10:00 p.m.)</i>		<i>Night (10:00 p.m. - 7:00 a.m.)</i>	
<i>Land Use Districts</i>	<i>L10</i>	<i>L50</i>	<i>L10</i>	<i>L50</i>
Residential	65	60	55	50
Commercial	70	65	70	65
Industrial	80	75	80	75

(B) The noise limits of the most restrictive district shall apply at the determination of land use by its zoned designation.  
 (Ord. 95, passed 8-6-2008) Penalty, see § 10.99

**§ 92.38 ENFORCEMENT DUTIES.**

The County Sheriff, by contract with the city, shall enforce this subchapter.  
 (Ord. 95, passed 8-6-2008)