

. CHAPTER I0 - PUBLIC PROTECTION, CRIMES AND OFFENSES

Section 1000 - WASTES

1000.01 Unlawful Deposit of Garbage, Litter or Like. It is unlawful for any person to deposit garbage, rubbish, offal, the body of a dead animal, or other litter in or upon any public street, public waters or the ice thereon, public lands, or, without the consent of the owner, private lands or water or ice thereon.

1000.02 Toilet Installation/Sewer and Water Main Connection Required. It is the duty of every owner or occupant of any property within the City, having a dwelling house or business building situated on the property abutting a street in which there are City water and sewer mains, to install a toilet in the dwelling or business building and to make a connection with the water and sewer mains. The City shall serve written notice upon the owner or occupant requiring the installation of toilet facilities in the premises described in the notice and connection with the sewer and water mains. The notice shall state that all of this shall be done within thirty (30) days after service of the written notice. The notice shall also provide that the City may perform the work and assess the property for the work. Whenever any owner or occupant fails to comply with the notice, the Council may by resolution direct that a toilet be installed and connection made with the water and sewer mains. The actual cost of the installation and connection shall be paid in the first instance out of the General Revenue Fund, and assessed against the property benefited. After the installation and connection is completed by order of the Council, the City shall serve a written notice of intention to make an assessment. If the assessment is not paid within ten (10) days, the City shall certify the assessment amount to the County Auditor in the same manner as with other special assessments, provided that the Council may by resolution provide that the assessment be spread over a term of five (5) years upon written request by the owner of the property.

Section 1005 - DANGEROUS WEAPONS AND ARTICLES

1005.01 Acts Prohibited. It is unlawful for any person to:

- A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
- B. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
- C. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,
- D. Have in one's possession any firearm, bow and arrow, crossbow, air rifle, trap or other paraphernalia for the taking of wild animals while in a public park, public area, or privately owned property that is uninhabited.
- D. Sell or have in possession any device designed to silence or muffle the discharge of a firearm.

1005.02 Exception. Nothing in 1005.01 of this Section shall prohibit the possession of the articles mentioned if the purpose of the possession is for public exhibition by museums or collectors of art.

1005.03 Discharge of Firearms and Explosives. It is unlawful for any person to fire or discharge any bow and arrow, cannon, gun, pistol, or other firearm, air gun, air rifle or other similar device referred to as a B-B gun.

SECTION 1011 - ANIMAL REGULATIONS AND LICENSES

Chapter 1011 - Animals

1011.01 Definitions. As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

Subd. 1 Animal. "Animal" shall mean 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. "Domestic animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, nonvenomous and non-constricting reptiles or amphibians, and other similar animals.

B. Non-Domestic. "Non-Domestic animals" shall mean 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, such 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 subpart, including but not limited to bears, deer, monkeys and game fish.

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

Subd. 2 Cat. "Cat" shall be intended to mean both the male and female of the felidae species commonly accepted as domesticated household pets.

Subd. 3 Dog. "Dog" shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

Subd. 4 Owner. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

Subd. 5 At Large. "At Large" shall be intended to mean 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.

Subd. 6 Release Permit. "Release Permit" shall mean a permit issued by the City Clerk for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee in accordance with that 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 from time to time by resolution of the city council, but not less than twenty-five dollars (\$25.00) the first time an animal is impounded, fifty dollars (\$50.00) the second time it is impounded, and seventy-five dollars (\$75.00) for the third and each subsequent time the same animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset that animal's impoundment count to the beginning of the fee scale.

1011.02 Dogs.

Subd. 1 Running at Large Prohibited. It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog, or the parents or the guardians of any such

person under 18 years of age, to run at large. Dogs 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 Prohibited."

Subd. 2 License Required.

A. 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 Clerk-Treasurer upon payment of the license fee. The owner shall state, at the time application is made for the license and upon forms provided for such purpose, 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, which has not been vaccinated against distemper and rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog owner for affixing to the license application.

B. It shall be the duty of each owner of a dog subject to this Section to pay to the Clerk-Treasurer the license fee as imposed by the Council by resolution.

C. Upon payment of the license fee, the Clerk-Treasurer 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 Clerk-Treasurer. A charge of two dollars (\$2.00) shall be made for each duplicate tag. 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.

D. The licensing provisions of this Subdivision 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.

E. The funds received by the Clerk-Treasurer from all dog licenses and metallic tags fees shall first be used to defray any costs incidental to the enforcement of this Section; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

Subd. 3 Cats. All other provisions of this Section shall not apply to cats unless otherwise provided.

Subd. 4 Vaccination.

A. All dogs kept harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for:

1. **Rabies** - with a live modified vaccine; and
2. Distemper

B. 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 Clerk-Treasurer or animal control 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 Clerk-Treasurer or animal control officer. Failure to do so shall be deemed a violation of this Section.

1011.03 Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such an animal at the time of adoption of this Code shall have thirty 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.

1011.04 Farm Animals. Farm animals shall only be kept in an agricultural district of the City, or on a residential lot of at least ten (10) acres in size provided that no animal shelter shall be within three hundred (300) feet of an adjoining piece of property. An exception shall be made to this subsection for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

1011.05 Impounding.

Subd. 1 Running at Large. Any unlicensed animal running at large is hereby declared a public nuisance. Any animal control officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. 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 Subd. 3, 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.

Subd. 2 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 Official 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 such 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 such 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 such confinement in such 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.

Subd. 3 Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 1011.11 in which case it shall be kept for seven regular business days or the times specified in §1011.11, 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:

A. Payment of a twenty-five dollar (\$25.00) release fee and receipt of a release permit from the City Clerk/Treasurer;

B. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound; and

C. If a dog is unlicensed, payment of a regular license fee and valid certificate of vaccination for rabies and distemper shots is required.

The twenty-five dollar (\$25.00) release fee in A is in addition to the release permit fee specified by § 1011.01, Subd. 6.

Subd. 4 Unclaimed Animals. At the expiration of the times established in Subdivision 3, 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 Clerk-Treasurer.

1011.06 Kennels.

Subd. 1 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 such keeping shall be deemed to be a "kennel."

Subd. 2 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 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.

1011.07 Nuisances.

Subd. 1 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 three minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises.

Subd. 2 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. Any animal covered by this subdivision may be impounded as provided in this Section or a complaint

may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

Subd. 3 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 such feces in a sanitary manner whether on their own property, on the property of others or on public property. Any person violating this section shall be punishable by a fine of ten dollars (\$10.00) or five (5) hours of public lands fecal clean-up. Any person who is found guilty of subsequent violations of this section shall be punished by a fine of at least twenty-five dollars (\$25.00) but not more than fifty dollars (\$50.00).

Subd. 4 Other. Any animals kept contrary to this Section are subject to impoundment as provided in § 1011.05

1011.08 Seizure of Animals. Any law enforcement officer or animal control officer may enter upon private property and seize any animal provided that following exist:

- A. There is an identified complainant other than a 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 1011.07, subd. 1; the criteria for cruelty set out in 1011.13; or the criteria for an at large animal set out in 1011.01 subd. 5;
- 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 property 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 passkey obtained from a property manager, landlord, innkeeper, or other authorized person to have such 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.

1011.09 Animals Presenting a Danger to Health and Safety of City. If, in the reasonable belief of any person or animal control 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 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 § 1011.05. If the

animal is destroyed, a charge of seventy-five dollars (\$75.00) to dispose of the animal is payable by the owner of the animal. 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 § 1011.05, Subd. 3.

1011.10 Diseased Animals.

Subd. 1 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.

Subd. 2 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 officer. The animal control officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the animal control officer shall cause such 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 for at least seventy-five dollars (\$75.00) to cover the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. 3 Release. If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

1011.11 Dangerous Animals.

Subd. 1. Attack by an animal. It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

Subd. 2. 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 ordinance.

Subd. 3. Definitions.

- (1) A dangerous animal is an animal, which has:
 - a. Caused bodily injury or disfigurement to any person on public or private property; or
 - b. Engaged in any attack on any person under circumstances which would indicate danger to personal safety; or
 - c. Exhibited unusually aggressive behavior, such as an attack on another animal; or
 - d. Bitten one (1) or more persons on two (2) 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) A potentially dangerous animal is an animal, which has:
 - a. Bitten a human or a domestic animal on public or private property; or
 - 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. Proper enclosure means 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 thirty-two (32) square feet.
- b. Sidewalls shall have a minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two (2) inches, support posts shall be one-and-one quarter-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the Sidewalls shall be buried a minimum of eighteen (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 (2) inches.
- 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 (2) 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. Unprovoked shall mean the condition, in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd. 4. Designation as potentially dangerous animal. The animal control officer shall designate any animal as a potentially dangerous animal upon receiving such evidence that such potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in subparagraph (c)(2). When an animal is declared potentially dangerous, the animal control officer shall cause one (1) owner of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous.

Subd. 5. 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 subparagraph (c)(1).

(2) That the animal has been declared potentially dangerous and such animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in subparagraph (c)(1).

Subd. 6. 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 (1) 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.

Subd. 7. Procedure. The animal control officer, after having determined that an animal is dangerous, may proceed in the following manner:

(1) The animal control officer shall cause one (1) 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 such orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal this order by requesting a hearing before the city council for a review of this determination.

a. If no appeal is filed, the orders issued will stand or the animal control officer may order the animal destroyed.

b. 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 (3) weeks after demand for the hearing. The records of the animal control or city clerk'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 such 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.

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

Subd. 8. 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.

Subd. 9. Notification of new address. The owner of an animal which has been identified as dangerous or potentially dangerous must 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 must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

1011.12 Dangerous animal requirements.

Subd. 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:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in section 1011.11, Subd. 3(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347.51;

(3) Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00);

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51;

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

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

Subd. 2. Seizure. Animal control shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (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.

Subd. 3. Reclaiming animals. A dangerous animal seized under subsection 1011.12, Subd. 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 1011.12, Subd. 2, is fulfilled. An animal not reclaimed under this section within fourteen (14) days may be disposed of as provided under section 1011.11, Subd. 6, and the owner is liable to animal control for costs incurred in confining the animal.

(d) Subsequent offenses. If an owner of an animal has subsequently violated the provisions under section 1011.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in section 1011.11, Subd. 6. 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 1011.12, Subd. 3. If the animal is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under section 1011.11, Subd. 6 and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

1011.13 Basic Care. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this Section.

1011.14 Breeding Moratorium. Every female dog in heat shall be confined in a building or other enclosure in such 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.

1011.15 Enforcing Officer. The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this Section. In the officer's duty of enforcing the provisions of this Section, he or she may from time to time, with the consent of the Council, designate assistants.

1011.16 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.

1011.17 Interference with Officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs or other animals and convey them to the pound while engaged in such 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 such officer in the discharge of his or her duties under this Chapter.

1011.99 Violations and Penalties.

Subd. 1 Separate Offenses. Each day a violation of this Chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this Section.

Subd. 2 Misdemeanor. Unless otherwise provided, violation of this Chapter shall constitute a misdemeanor punishable by a fine of up to \$700 or imprisonment for up to 90 days.

Subd. 3. Petty Misdemeanor. Violations of §§ 1011.02, 1011.07, 1011.13 and 1011.14 are petty misdemeanors punishable by a fine up to \$300.

Section 1015 - ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.

1015.01 Definitions. As used in this Section, the following definitions shall apply:

Subd. 1 Farm Animals. Cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, honey bees, and other similar animals, birds, etc. commonly associated with a farm or agricultural use.

Subd. 2 Domesticated Animals. Includes farm animals and all other animals, reptiles and feathered birds or fowl commonly considered as household pets which are domestic as opposed to wild in nature. Such animals shall include dogs, cats, monkeys trained to assist the disabled, gerbils, hamsters, up to two (2) caged rabbits, and caged household birds.

Subd. 3 Non-Domestic Animals. Includes all animals, birds, fowl, reptiles, etc. not defined in subdivisions one and two and which are generally considered as wild in nature. Such animals shall include, but not be limited to, cougars, bears, poisonous snakes, raccoons, deer, and similar animals.

1015.02 Keeping. It is unlawful for any person to keep or harbor any non-domestic or farm animal, not in transit, except (1) farm animals kept in that portion of the City zoned for agricultural purposes; (2) animals kept as part of a show licensed under the City Code; (3) animals used in a parade for which a permit has been issued under the City Code; (4) animals kept in a laboratory for scientific or experimental purposes; or (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

1015.03 Animals in Transit. It is unlawful for any person to transport any animal unless the animal is (1) confined within a vehicle, cage or other means of conveyance; (2) farm animals being transported in a portion of the City zoned for agricultural purposes; or (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

1015.04 Treatment. It is unlawful for any person to treat an animal in a cruel or inhumane manner.

1015.05 Housing. It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.

1015.06 Trespasses. It is unlawful for any person to herd, drive or fide any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific permission from the owner.

1015.07 Unlawful Acts. It is a petty misdemeanor for the owner of any animal to violate the provisions of this Section or to (1) own or keep an animal which is dangerous (any such animal which has caused injury to persons or property shall be deemed "dangerous"); or (2) interfere with any police officer, or other City employee, in the performance of their duty to enforce this Section; or (3) fail to keep their animal from barking, howling, whining and crying; or (4) allow their animal to frequent school grounds, parks or public beaches or to chase vehicles; molest or annoy any person away from the property of its owner or custodian; or damage, defile or destroy public or private property.

1015.08 Proceedings for Destruction of Certain Animals. Upon sworn complaint to the County Court that any one of the following facts exist: (1) that any animal at any time has destroyed property or habitually trespasses in a damaging manner on the property of persons other than the owner; or (2) that any animal at any time has attacked or bitten a person outside the owner's or custodian's premises; or (3) that any animal is dangerous or shows dangerous habits, as these terms are defined for dogs in M.S. 347.50, or molests pedestrians or interferes with vehicles on the public street; or (4) that any animal is a public nuisance as herein defined; the Judge shall issue a summons directed to the owner of the animal commanding the owner to appear before the Court to show cause why the animal should not be seized by any police officer, or otherwise disposed of in the manner authorized by this Section. Such summons shall be returnable not less than two nor more than six days from the date thereof and shall be served at least two days before the time of the scheduled appearance. Upon such hearing and finding the facts true as complained of the Court may either order the animal killed or order the owner or custodian to remove it from the City, or may order the owner or custodian to keep it confined to a designated place. If the owner or custodian violates such order, any police officer may impound the animal described in such order. The provisions of this Subdivision are in addition to any supplemental to other provisions of this Section. Statutory costs and disbursements of the proceeding specified by this Subdivision shall be assessed against the owner or custodian of the animal, if the facts in the complaint are found to be true; or to the complainant, if the facts are found to be untrue.

1015.09 Summary Destruction of Certain Animals. Whenever an officer has reasonable cause to believe that a particular animal presents a clear and immediate danger to residents of the City because it is infected with rabies (hydrophobia) or because of a clearly demonstrated vicious nature, the officer, after making reasonable attempts to impound such animal, may summarily destroy the animal.

1015.10 Written Notice. Before any prosecution is commenced for a violation of this Section, a written notice shall be served in person or by certified mail upon the person who allegedly is in violation, stating the nature of the violation and providing a 15-day period within which the person must cease to be in such violation.

1020.01 Minors Under the Age of Eighteen. It is unlawful for any minor person under the age of sixteen (16) years to be or loiter upon the streets or public places between the hours of 10:00 o'clock P.M, and 5:00 o'clock A.M. of the following day. It is unlawful for any minor person aged sixteen (16) years or seventeen (17) years old to be or loiter upon the streets or public places between the hours of 11:59 o'clock P.M. and 5:00 o'clock A.M. of the following day.

1020.02 Parents and Guardians. It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor person to allow or permit the minor to be or loiter upon the streets or public places in violation of this Section unless the minor is accompanied by a person of lawful age and having charge of the minor.

1020.03 Places of Amusement, Entertainment or Refreshment. It is unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor person to be or loiter in such place in violation of this Section unless the minor is accompanied by a person of lawful age having charge of the minor. This Section shall not be construed to permit the presence, at any time, of any person under age in any place where the minor's presence is otherwise prohibited by law.

1020.4 Exceptions. The curfew shall not apply to any students under the age of eighteen years who are lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events, or to a minor returning home from a lawful employment situation, or to a minor responding to an emergency situation or need.

Section 1030 -DANGEROUS TRESPASSES AND OTHER ACTS

1030.01 Dangerous Trespasses and Other Acts. It is unlawful for any person to:

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

1030.02 Trespasses in Public Buildings.

Subd. 1 Public Buildings Defined. The term "public buildings" means structures or areas owned and operated by any governmental unit for the conduct of governmental functions including but not limited to: public and private schools,

libraries, parks, playgrounds, City administrative offices, garages and fire halls, waste treatment plants, pump houses, federal financed housing projects.

Subd. 2 Unlawful Acts.

A. It is unlawful for any person to remain in a public building or upon the grounds of the building after being requested to leave the premises by persons lawfully responsible for the control and maintenance of the building, when the continued presence of any person shall injure or endanger the safety of the buildings or property, or unreasonably interfere with the administration of the premises.

B. It is unlawful for any person, whether on or off the premises or grounds of any public building, to wrongfully harass, disrupt, disturb, interfere with or obstruct any public or governmental business or function being conducted within or upon the premises or grounds of any public buildings.

Section 1035 - SHADE TREE DISEASE CONTROL AND PREVENTION.

1035.01 Policy and Purpose. The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these diseases, and provide for the removal of dead or diseased trees, as nuisances.

1035.02 Definitions. The following terms, as used in this Section, shall have the meanings stated:

Subd. 1 Shade Tree Disease. Dutch elm disease or oak wilt disease.

Subd. 2 City Forester. The Park Superintendent, or other employee of the City as the Council may designate and who shall thereafter qualify, together with the employee's duly designated assistants.

Subd. 3 Nuisance. (1) any living or standing tree infected to any degree with a shade tree disease; or (2) any logs, branches, stumps or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the City Forester.

1035.03 Scope and Adoption by Reference. Minn. Stat. Sec. 18.022-18.023, are hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided, that this Section shall supersede such Statutes, Rules and Regulations, only to the extent of inconsistencies.

1035.04 Unlawful Act. It is unlawful for any person to keep, maintain or permit upon premises owned by the person or upon public property where the person has the duty of tree maintenance, any nuisance as defined in this Section.

1035.05 Inspection and Diagnosis. It is the power and duty of the City Forester to enter upon public and private property, at any reasonable time, for the purpose of inspecting for, and diagnosing, shade tree disease. In cases of suspected shade tree disease, and in performance of official duties, the City Forester may remove such specimens, samples and biopsies as may be necessary or desirable for diagnosis.

1035.06 Abatement of Nuisance. Abatement of a nuisance, as defined in this Section shall be by spraying, removing, burning or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease. The abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be

designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent with this Section.

1035.07 Procedure for Removal of Infected Trees and Wood.

Subd. 1 Procedures. Whenever the City Forester finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, the forester shall proceed as follows:

A. If the City Forester finds that the danger of infection of other trees is not imminent because of dormance of shade tree disease, the Forester shall make a written report of the Forester's finding to the Council which shall proceed by (a) abating the nuisance as a public improvement under Minn. Stat., Chapter 429, or (b) abating the nuisance as provided in Subparagraph B of this Subdivision.

B. If the City Forester finds that danger of infection of other trees is imminent, the Forester shall notify the owner of the property, or the abutting property, as the case may be, by certified mail that the nuisance will be abated within a specified time, not less than ten (10) days from the date of mailing of the notice. The City Forester shall immediately report this action to the Council, and after the expiration of the time limited by the notice the Forester may abate the nuisance.

C. If the City Forester finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, the Forester may proceed to abate the nuisance. The Forester shall report this action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.

Subd. 2 Nuisance Abated. Upon receipt of the City Forester's report required by Subdivision 1, Paragraph A, the Council shall by resolution order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one (1) week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment of the hearing, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall then adopt a resolution confirming the original resolution with any modifications as it considers desirable. The resolution may provide for the doing of the work by day labor or by contract.

Subd. 3 Record of Costs. The City Forester shall keep a record of the costs of abatements done under this Section and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

Subd. 4 Unpaid Charges. On or before September 1 of each year the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion of the charges against the property involved as a special assessment under Minn. Stat. Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

Subd. 5 No Damage Awarded. No damage shall be awarded the owner for destruction of any tree, wood or part of the tree pursuant to this Section.

Subd. 6 Negotiations. If abatement of the nuisance can be negotiated between the City Forester and the owner of the property upon which the tree is situated, or upon which it abuts, the formalities of this Section may be waived by the City.

Subd. 7 Spraying Trees.

A. Whenever the City Forester determines that any tree or wood is infected or threatened with infection, the Forester may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and with plans of the Commissioner of Agriculture and under the supervision of the Commissioner and the Commissioner's agents whenever possible.

B. The notice and assessment provisions of Subdivision 1 apply to spraying and treatment operations conducted under this Subdivision.

Subd. 8 Transporting Wood Prohibited. It is unlawful for any person to transport elm wood into or through the City unless the same is debarked, or, in the months of April, May or June, to transport any oak wood, without having obtained a permit from the City Forester, or into or through any designated "disease control area" as defined by Minn. Stat. Section 18.023. The City Forester shall grant such permits only when the purposes of this Section will be served. This prohibition shall not apply to movement of such wood pursuant to an approved wood disposal or utilization program authorized by Minn. Stat. Section 18.023, or to transportation of elm wood intended for industrial use not to include firewood, provided such transportation of elm logs for industrial use continues without interruption through the City or "disease control area" to their intended destination lying outside the City and "disease control area".

Subd. 9 Stockpiling Permitted. The stockpiling of bark-bearing elm wood shall be permitted within the City during the period from September 15 through April 1 of the following year. Any such wood not used by April 1 shall be removed and disposed of as provided by this Section and the Regulations incorporated herein.

Subd. 10 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the City Forester while the Forester is engaged in the performance of duties imposed by this Section.

Subd. 11 Additional Duties of City Forester. It is the additional duty of the City Forester to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of shade tree disease. The Forester shall recommend to the Council the details of a program for the control of the diseases, and perform the duties incident to a program adopted by the Council.

Subd. 12 Subsidies. The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the City for the treatment or removal of trees infected with shade tree disease.

Section 1040 – ADOPTION OF FIRE CODE

1040.1 Adoption of The Minnesota Uniform Fire Code. The Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. Three copies of said Code shall be marked CITY OF KILKENNY - OFFICIAL COPY and kept on file in the office of the City Clerk and open to inspection and use by the public.

Section 1050 - RULES AND REGULATIONS ON PUBLIC AND PRIVATE
PROPERTY

1050.01 Prevention, Reduction or Elimination of Blight

Subd. 1 Causes of Blight or Blighting Factors.

A. It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods, so as to be harmful to the public welfare, health and safety. No person, firm or corporation of any kind shall maintain or permit to be maintained, any of these causes of blight or blighting factors upon any property, Public or Private, in the City of Kilkenny, owned, leased, rented, or occupied by such person, firm or corporation.

B. In any area, the storage upon any property of junk automobiles is considered a cause of blight. For the purpose of this Section of the City Code, the term "junk automobiles" shall include any motor vehicle, part of a motor vehicle or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the State of Minnesota, and is either (1) unusable or inoperable because of lack of, or defects in component parts; or (2) unusable or inoperable because of damage from collision, deterioration, alteration or other factors; or (3) beyond repair and, therefore, not intended for future use as a motor vehicle; or (4) being retained on the property for possible use of salvageable parts. This Section shall not apply to vehicle storage associated with, but not limited to, vehicle repair shops, body repair shops, towing businesses, and motor fuel stations duly licensed by the City through the City Clerk's office. There shall be no storage license fee, but the above identified businesses excepted must obtain the proper license from the City Clerk's office to fall within the protection of the motor vehicle storage exception outlined herein. Fencing and screening is absolutely required around the storage area when more than five (5) vehicles are or may reasonably be expected to be regularly and customarily stored on the property for longer than a 48-hour period. The fencing requirement will be met if a fence six-foot high and providing 90% opacity on the contents of the storage area can be achieved and maintained. The City may revoke the license granted herein if the fencing requirements are not met by the property owner or operator of the business located on the property. The fencing requirement stated herein shall be a primary requirement and shall not be construed to be in conflict with any other provision of this Code or any other City ordinance concerning fencing which may be at variance with the requirements of this Section.

C. In any area the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed thirty (30) days. The term "*junk*" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open; remnants of wood, decayed, weathered or broken construction materials no longer suitable for sale, approved building materials; metal or other cast off material of any kind, whether or not the same Could be put to any reasonable use.

D. In any area the existence of any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling or useful for any other purpose for which it may have been intended.

E. In any area the existence of any vacant dwelling, garage, or other out building unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

Subd. 2 Penalty. Any violation of this Section is declared to be a nuisance and upon seven (7) days written notice to the owner of private premises on which such material or buildings are found, the City may remove the same and certify the cost of such removal as any other special assessment. The owner will be determined as listed with the County Recorder. Failure to comply with the written notice within the time allowed shall constitute a violation of this Section.

1050.02 Abandoning a Motor Vehicle. It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in ~um. Stat., Chapter 169.

1050.03 Grass and Weeds on Private Property.

Subd. 1 Weed Height. It is unlawful for any owner, occupant or agent of any lot or parcel of land in the City to allow any weeds or grass growing upon any such lot or parcel of land to grow to a greater height than six (6) inches or to allow such weeds or grass to go to seed.

Subd. 2 Failure to Comply. If any owner, occupant or agent fails to comply with this height limitation and after notice given by the City Clerk, has not within seven (7) days of the notice complied with the requirement, the City shall cause the weeds or grass to be cut and any expenses incurred shall be a lien upon the real estate. The City Clerk shall certify to the County Auditor of Le Sueur County, a statement of

the amount of the cost incurred by the City. This amount together with interest shall be entered as a special assessment against the lot or parcel of land and shall be collected in the same manner as real estate taxes.

1050.04 Barbed Wire Fences. It is unlawful for any person, except in the Agricultural District, to erect or maintain a barbed wire fence upon the person's property, which fence abuts upon any street or within ten (10) feet of the property line with an abutting property owner.

Section 1055 - DISPOSAL O17 ABANDONED MOTOR VEHICLES, UNCLAIMED
PROPERTY AND EXCESS PROPERTY

1055.01 Definitions. Unless the context indicates otherwise, the following terms have the stated meanings:

Subd. 1 Abandoned Motor Vehicle. A motor vehicle as defined in Minn. Stat. Chapter 169, that has remained for a period of more than forty-eight (48) hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight (48) hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minn. Stat. Chapter 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with this Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

Subd. 2 Vital Component Parts. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to the motor, drive train and wheels.

1055.02 Custody. The City shall take into custody and impound any abandoned motor vehicle.

1055.03 Immediate Sale. When an abandoned motor vehicle is more than seven (7) model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provision of this Section.

1055.04 Notice.

Subd. 1 Within Ten (10) Days. When abandoned motor vehicles does not fall within the provisions of 1055.03 of this Section, the City shall give notice of the taking within ten (10) days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under 1055.05 of this Section, and shall state that failure of the owner or lien holder

to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to 1055.06 of this Section.

Subd. 2 Sent by Mail or Published. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle 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.

1055.05 Right to Reclaim.

Subd. 1 Upon Payment. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice required by this Section.

Subd. 2 Garage Keeper. Nothing in this Section shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the 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.

1055.06 Public Sale.

Subd. 1 Sale by Public Auction. An abandoned motor vehicle and contents taken into custody and not reclaimed under 1055.05 shall be sold to the highest bidder at public auction or sale, following one published notice published at least seven (7) days prior to such auction or sale. 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 such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

Subd. 2 Proceeds of Sale. From the proceeds of the sale of an abandoned 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 proceeds of a sale shall be held for the owner

of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the General Fund of the City.

1055.07 Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle, the City may dispose of it in accordance with this Section.

1055.08 Contracts and Disposal.

Subd. 1 Contract. The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

Subd. 2 Disposal. Where the City enters into a contract with a person duly licensed by the Minnesota 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. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.

Subd. 3 City- Reimbursement. If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as provided in this Section.

1055.09 Disposal of Unclaimed Property.

Subd. 1 Definition. Unless the context indicates otherwise, the term abandoned property means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty (60) days and has been declared such by a resolution of the Council.

Subd. 2 Preliminary Notice. If the City Clerk knows the identity and whereabouts of the owner, the Clerk shall serve written notice upon the owner at least thirty (30) days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk notice shall also be served upon the prior holder. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty (30) days from the date of such notice.

Subd. 3 Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk shall publish a notice describing the same, together with the names (if known) and addresses (if known) of prior owners and holders, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least three (3) weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

Subd. 4 Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses from the sale paid, throughout these proceeds. If the former owner makes claim within eight (8) months from the date of publication of the notice provided in this Section, and upon application and satisfactory proof of ownership, the owner may be paid the amount of cash and negotiables or, in the case of property sold, the amount received, less a pro-rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

1055.10 Disposal of Excess Property.

Subd. 1 Declaration of Surplus and Authorizing Sale of Property. The City Clerk may, from time to time, recommend to the Council that certain personal property owned by the City is no longer needed for a municipal purpose and should be sold. By action of the Council, said property shall be declared surplus, the value estimated and the City Clerk authorized to dispose of said property in the manner stated in this Section.

Subd. 2 Surplus Property- With a Total Estimated Value of Less Than \$100.00. The City Clerk may sell surplus property with a total value of less than \$100.00 through negotiated sale.

Subd. 3 Surplus Property With a Total Estimated Value Between \$100.00 and \$500.00. The City Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$100.00 to \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten (10) days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the City Clerk's option. Such sale shall be by auction.

Subd. 4 Surplus Property- With a Total Estimated Value Over \$500.00. The City Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$500.00. Notice of such public sale shall be given stating time

and place of sale and generally describing property to be sold at least ten (10) days prior to the date of sale. The notice shall be by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

Subd. 5 Receipts From Sales of Surplus Property-. All receipts from sales of surplus property under this Section shall be placed in the General Fund.

1055.11 Persons Who May Not Purchase - Exception.

Subd. 1 City Employees. 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 property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one (1) week's published or posted notice of sale is given.

Subd. 2 Unlawful. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

Section 1060: OPEN BURNING

Subd. 1. Statutes adopted by reference:

Minnesota Statute §88.15, §88.16, §88.17, §88.171, §88.18 and §88.195 are incorporated by reference as if fully set forth herein.

Subd. 2. Appointment of Fire Warden:

The City Council at its organizational meeting each year shall by resolution appoint a citizen of the community as fire warden. That individual to apply to State Department of Natural Resources pursuant to M.S. §88.18 for appointment.

Subd. 3. Extinguishment, Any forest officer, conservation officer, or other peace officer who finds that any person has left a campfire burning shall take measures to extinguish the fire and take action against the person or persons responsible for leaving the campfire burning.

Subd. 4. Not to be left burning. Every person who starts a campfire shall exercise every reasonable precaution to prevent the campfire from spreading and shall before lighting the campfire clear the ground of all combustible material within a radius of five(5) feet from the base of the campfire. The person lighting the campfire shall remain with the campfire at all times and shall before leaving the site completely extinguish the campfire.

Section 1065: STARTING FIRES; BURNERS; FAILURE TO REPORT FIRE

Subd. 1. Except as provided in subdivision 2, it shall be unlawful to start or have any open fire without permission of the commissioner, a forest officer, or an authorized fire warden.

Subd. 2. No permit is required for the following fires:

- (a) A fire started when the ground is anew-covered.
- (b) A campfire.
- (c) A fire contained in a charcoal grill, camp stove, or other device designed for the purpose of cooking or heating.
- (d) A fire to burn dried vegetative materials and other materials allowed by Minnesota statutes or official state rules and regulations in a burner of a designed which has been approved by the commissioner and with which there is no combustible material within five (5) feet of the base of the burner and is in use only between the hours of 6:00 p.m. and 8:00 a.m. of the following day.

Subd. 3. The occupant of any property upon which any unauthorized fire is burning, whether the fire was started by the occupant or otherwise shall promptly report to the nearest forestry office, fire department, or other proper authority. Failure to make this report shall be a misdemeanor and the occupant of the premises shall be deemed prima facie guilty or negligence if the unreported fire spreads from the property or causes damage, loss, or injury to another person, that person's property, or the state.

Section 10.66: PERMISSION TO START FIRES; PROSECUTION FOR UNLAWFULLY STARTING FIRES

Subdivision 1. Permit required. A permit to start a fire to burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations may be given by the commissioner or the commissioner's agent. This permission shall be in the form of a written permit signed by a forest officer, fire warden, authorized Minnesota pollution control agent, or other person authorized by the forest officer, or town fire warden, and shall set the time and conditions by which the fire may be started and burned. The permit shall also specifically list the materials that may be burned. The permittee must have the permit on their person and shall produce the permit for inspection when requested to do so by a forest officer, town fire warden, conservation officer; or other peace officer. The permittee shall remain with the fire at all times and before leaving the site shall completely extinguish the fire. A person shall not start or cause a fire to be started on any land that is not owned or under their legal control without the written permission of the owner, lessee, or an agent of the owner or lessee of the land. Violating or exceeding the permit conditions shall constitute a misdemeanor and shall be cause for the permit to be revoked.

Subd. 2. Special permits. The following special permits are required at all times, including when the ground is snow-covered.:

(a) Fire training. A permit to start a fire for the instruction and training of firefighters, including liquid fuels training, may be given by the commissioner or agent of the commissioner. Except for owners or operators conducting fire training in specialized industrial settings pursuant to applicable federal, state, or local standards, owners or operators conducting open burning for the purpose of instruction and training of firefighters with regard to structures must follow the techniques described in a document entitled: Structural Burn Training Procedures for the Minnesota Technical College System.

(b) Permanent tree and brush open burning sites. A permit for the operation of a permanent tree and brush burning site may be given by the commissioner or agent of the commissioner. Applicants for a permanent open burning site permit shall submit a complete application on a form provided by the commissioner. Existing permanent tree and brush open burning sites must submit for a permit within 90 days of the passage of this statute for a burning permit. New site applications must be submitted at least 90 days before the date of the proposed operation of the permanent open burning site. The application must be submitted to the commissioner and must contain:

(1) the name, address, and telephone number of all owners of the site proposed for use as the permanent open burning

(2) If the operator for the proposed permanent open burning site is different from the owner, the name, address, and telephone number of the operator;

(3) a general description of the materials to be burned, including the source and estimated quantity; and

(4) a topographic or similarly detailed map of the site and surrounding area within a one mile circumference showing all structures that might be affected by the operation of the site.

Only trees, tree trimmings, or brush that cannot be disposed of by an alternative method such as chipping, composting, or other method shall be permitted to be burned at a permanent open burning site. A permanent tree and brush open burning site must be located so as not to create a nuisance or endanger water quality.

Section 1066 - OPEN BURN PROHIBITIONS

Subdivision 1. Continual. Open burning prohibitions specified in this section are in effect at all times of the year.

Subd. 2. Prohibited materials; exceptions. No person shall conduct, cause, or permit open burning of rubber, plastics, "chemically treated materials, or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters. The commissioner may allow burning of prohibited materials when the commissioner of health or the local board of health has made a determination that fire burning is necessary to abate a public health nuisance. Except as specifically authorized by the commissioner of the pollution control agency as an emergency response to an oil spill, no person shall conduct, cause, or permit open burning of oil.

Subd. 3. Hazardous wastes. No person shall conduct, cause, or permit open burning of hazardous waste as defined in section 116.06, subdivision 11, and applicable commissioner's rules.

Subd. 4. Industrial solid waste. (a) No person shall conduct, cause, or permit open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial structure.

(b) The commissioner may allow open burning of raw untreated wood if the commissioner determines that reuse~ recycling, or land disposal is not a feasible or prudent alternative.

Subd. 5. Demolition debris. No person shall conduct, cause, or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

Subd. 6. Salvage operations. No person shall conduct, cause, or permit salvage operations by open burning.

Subd. 7. Motor vehicles. No person shall conduct, cause, or permit the processing of motor vehicles by open burning.

Subd. 8. Garbage. (a) No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food, unless specifically allowed under section 17.135.

(b) A county may allow a resident to conduct open burning of material described in paragraph (a) that is generated from the resident's household if the county board by

resolution determines that regularly scheduled pickup of the material is not reasonably available to the resident.

Sub& 9. Burning ban. No person shall conduct, cause, or permit open burning during a burning ban put into effect by a local authority, county, or a state department or agency.

Subd. 10. Smoldering fires. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forests, prairies, or wildlife habitats.

Section 1067.- PENALTIES

Subdivision 1. Failure to extinguish a fire. Any person who starts and fails to control or extinguish the fire, whether on owned property or on the property of another, before the fire endangers or causes damage to the property of another person or the state is guilty of a misdemeanor.

Subd. 2. Failure to control a permit fire. Any person who has a burning permit and fails to keep the permitted fire contained within the area described on the burning permit or who fails to keep the fire restricted to the materials specifically listed on the burning permit is guilty of a misdemeanor.

Subd. 3. Careless or negligent fires. Any person who carelessly or negligently starts a fire that endangers or causes damage to the property of another person or the state is guilty of a misdemeanor.

Subd. 4. Careless or negligent acts. Any person who participates in an act involving careless or negligent use of motor vehicles, other internal combustion engines, firearms with tracers or combustible wads, fireworks, smoking materials, electric fences, torches, flares, or other burning or smoldering substances whereby a fire is started and is not immediately extinguished before the fire endangers or causes damage to the property of another person or the state is guilty of a misdemeanor.

Subd. 5. Internal combustion engines. Any person who operates a vehicle in a wildfire area when the ground is not anew-covered with an open exhaust cut-out, without a muffler, without a catalytic converter if required, or without a spark arrestor on the exhaust pipe; or any person who operates a tractor, chainsaw, or other internal combustion engine not equipped to prevent fires is guilty of a misdemeanor.