

CHAPTER IX

PUBLIC SAFETY

SECTION 900 - ANIMALS

900.01. Animal Licensing and Regulation. Subdivision 1. Running at Large.

- a) No owner of any animal, whether kept, harbored, or maintained within or without the city, shall permit or suffer such animal to run or move at large at any time within the city. For the purpose of this section, every such animal at large shall be deemed at large with the permission and at the sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending animal escaped or is otherwise at large without the permission or sufferance of its owner.
- b) Any animal shall be deemed to be running at large unless it is on a durable leash secured to an object which it cannot move and on the premises of the owner, or on a leash or under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building, or enclosure.

Subd. 2. Adoption of Fees. All fees for the impounding and maintenance of animals may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the Clerk Administrator and open to inspection during regular business hours.

Subd. 3. Tag Required. All animals shall wear a collar and have a tag firmly affixed thereto evidencing that the animal has a current rabies vaccination by a veterinarian licensed to practice veterinary medicine in the State of Minnesota and the contact information of the owner of the animal. Tags shall not be transferrable from one animal to another.

Subd. 4. Apprehension of Animals.

- a) Seizure of Animals at Large. An animal control officer or law enforcement officer may apprehend and take possession of any animal at large. Any animal apprehended by an animal control officer or law enforcement officer may be conveyed to the kennel or impound site designated by the City to be there confined until released or disposed of as hereinafter provided.

- b) Seizure of Untagged or Unvaccinated Animals. Any animal control officer or law enforcement officer may seize any animal, at any location, which is not tagged as required herein, or is not vaccinated by a veterinarian licensed to practice veterinary medicine in the State of Minnesota. Any animal seized may be conveyed to the kennel or impound site designated by the City to be there confined until released or disposed of as hereinafter provided.

Subd. 5. Notice of Apprehension.

- a) Identified Animal. Within 48 hours after apprehending any dog or cat pursuant to Subdivision 4 of this section, a reasonable effort shall be made to contact the owner at the address/telephone number listed on the animal's tag.
- b) Unidentified Animal. If the owner is unknown, written notice shall be posted for five days at the City Hall describing the animal and the place and time of taking.

Subd. 6. Reclaiming Animals from Kennel/Impound. Within the time limit set forth in Subdivision 7 of this section, the owner of any animal seized pursuant to this chapter may retrieve the animal from the impound site or kennel designated by the City, provided the owner first pays all impound fees to cover the cost of apprehending the animal, boarding fees to cover the cost of sheltering the animal, pays any veterinary costs incurred by the City, and pays any other costs incurred by the City. The owner shall also pay any costs involved in vaccinating the animal as required by this chapter. No animal which is apprehended under this code shall be released until the animal in question has been proven to have a current rabies vaccination. If proof cannot be provided, the owner of any animal seized pursuant to this chapter shall also pay any costs associated with vaccinating the animal for rabies and the animal shall not be released until such vaccination is administered.

Subd. 7. Disposing of Unclaimed Animals. If any animal apprehended under this Section is not claimed by its owner or owner's representative within five days after the date of apprehension, excluding holidays or other days the kennel or impound site is closed, the city shall cause the animal to be destroyed in a humane way or may allow the animal to be adopted by any other interested person over the age of 18 after payment of such fees as may be determined by the Council. Unclaimed animals may also be requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the five-day period. Notwithstanding the provisions of this subdivision, any cat with no tag, collar, or other mark of ownership which, in the opinion of a veterinarian is feral, may be humanely destroyed immediately upon apprehension.

Subd. 8. Apprehension/Impoundment Records. Impoundment records shall be preserved for at least six months and shall show (1) the description of the animal by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the animal was seized; (3) the date of seizure; (4) the name and address of the person from whom any animal three months of age or over was received; and, (5) the name and address of the person to whom any animal three months of age or over was transferred.

Subd. 9. Feces Clean Up.

- a) It is a petty misdemeanor for any person having the custody or control of any dog or cat, to permit such dog or cat to be on any property, public or private, not owned or possessed by such person, unless such person has in his/her immediate possession a device for the removal of excrement and depository for the transmission of excrement to a proper receptacle located upon property owned or possessed by such person.
- b) It is a petty misdemeanor for any person in control of, causing or permitting any dog or cat to be on any property, public or private, not owned or possessed by such person, to fail to remove excrement left by such dog or cat to a proper receptacle located on the property owned or possessed by such person.
- c) The provision of this Subdivision shall not apply to the ownership or use of seeing-eye dogs by blind persons or dogs used in law enforcement activities within the City.

Subd. 10. Obstructing Enforcement.

- a) It is a petty misdemeanor for any person to hinder or interfere with employees of the City in the enforcement of any of the provisions of this Section.
- b) It is a petty misdemeanor for any person to break open the Animal Pound or attempt to do so, or to take or let out any dogs or cats taken thereto, or to take or attempt to take from any officer, any dog or cat taken up by him in compliance with this Section.

Subd. 11. Barking Dogs.

- a) It is a petty misdemeanor for any person to have custody or control of a barking dog. It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual provided that such noise lasts for a period of more than five minutes continuously or intermittent barking that continues for more than one hour and is plainly audible outside the property limits of where the dog is kept. It shall not be a violation of this section if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located.
- b) Any police officer or animal control officer may enter onto private property and seize any barking dog, provided that the following conditions exist:
 - 1) There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking;
 - 2) The officer reasonably believes that the barking meets the criteria set forth in Subparagraph a) above;
 - 3) The officer can demonstrate that there has been at least one previous complaint of a dog barking at this address on a prior date;
 - 4) The officer has made reasonable attempts to contact the owner of the dog(s) or the owner of the property and those attempts have either failed or have been ignored;
 - 5) The seizure will not involve forced entry into a private residence. Use of a passkey obtained from the property manager, landlord, innkeeper, or other person authorized to have such a key shall not be considered as a forced entry;
 - 6) No other less intrusive means to stop the barking is available, and
 - 7) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

- c) Any dog seized under the provisions of Subparagraph b) shall be impounded and disposed of pursuant to a provision of Section 12.05, Subdivision 4, Subdivision 5 and Subdivision 6.
- d) Any dog seized under Subdivision 11 herein which is unclaimed may be disposed of according to the provisions of Section 12.05, Subdivision 4.
- e) Any person who violates this subdivision shall pay an administrative fine of \$100.00 to the City.

Subd. 12. Dangerous or Potentially Dangerous Dogs.

a) Definitions.

(1) **"Dangerous Dog".** A dog which has:

- (a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (b) Killed a domestic animal without provocation while off the owner's property;
- (c) Bitten one or more persons on two or more occasions; or
- (d) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) **"Potentially Dangerous Dog".** A dog which has:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

- (3) ***"Proper Enclosure"***. Securely confined indoors or in a securely locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog without human assistance. A pen or kennel shall meet the following minimum specifications:
- (a) Have a minimum overall floor size of 32 square feet.
 - (b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 13-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.
 - (c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.
 - (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the dog is in the pen or kennel.
- (4) ***"Unprovoked"***. The condition in which the dog is not purposely excited, stimulated, agitated or disturbed.
- (5) ***"Owner"*** means any person, firm, corporation, organization or department possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.
- (6) ***"Animal Control Officer"*** means the Dodge County Sheriff's office or any licensed peace officer charged with enforcing this Code.
- b) Designation.

- (1) ***Designation as potentially dangerous dog.*** The Animal Control Officer shall designate any dog as a potentially dangerous dog upon receiving evidence that the potentially dangerous dog meets the definition as described in Section A (2). When a dog is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous dog to be notified in writing that the dog is potentially dangerous.
 - (a) This notice shall require that the owner of the potentially dangerous dog provide sufficient evidence that:
 - (1) The owner has had a microchip identification implanted in the dog for identification purposes.
 - (2) Liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota in a form acceptable to the City in the sum of at least Fifty Thousand Dollars (\$50,000.00) payable to any person injured by the potentially dangerous dog and insuring the owner for any personal injuries inflicted by the potentially dangerous dog.
- (2) ***Designation as dangerous dog.*** The Animal Control Officer shall have the authority to designate any dog as a dangerous dog upon receiving evidence that the dangerous dog has met the definition of a dangerous dog as described in Section A (1) or the dog has been declared a potentially dangerous dog and the owner has failed to comply with the requirements of Section B (1) of designation of a potentially dangerous dog.
- (3) ***Authority to order destruction.*** The Animal Control Officer, upon finding that a dog is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed based on a written order containing one or more of the following findings of fact:
 - (a) The dog is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
 - (b) The owner of the dog has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

- (4) **Procedure.** The Animal Control Officer, after having determined that a dog is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the dog to be notified in writing or in person that the dog is dangerous and may order the dog seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.
- (a) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the dog from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the dog.
 - (b) If an owner requests a hearing for determination as to the dangerous nature of the dog, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk'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 dog, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the dog into custody for destruction, if the dog is not currently in custody. If the dog is ordered into custody for destruction, the owner shall immediately make the dog available to the Animal Control Officer. If the owner does not immediately make the dog available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the dog from a court of competent jurisdiction.
 - (c) No person shall harbor a dog after it has been found by to be dangerous and ordered into custody for destruction.
- (5) **Stopping an attack.** If any police officer or Animal Control Officer is witness to an attack by a dog 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.

- (6) **Notification of new address.** The owner of a dog which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the dog is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

c) Dangerous Dog Requirements.

- (1) No person may own a dangerous dog in the City unless the dog is registered as provided in this section.
- (2) If the City does not order the destruction of a dog that has been declared dangerous, the City Council may, as an alternative, issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
 - (a) That the owner provide and maintain a proper enclosure for the dangerous dog as specified in Section A (3);
 - (b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. §347.51 as may be amended from time to time;
 - (c) Provide and show proof annually of public liability insurance in the *minimum* amount of \$300,000;
 - (d) If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - (e) The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

- (f) All dogs deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.
 - (g) The dog must be up to date on rabies vaccination.
 - (h) Fee. The City will charge the owner an annual fee to obtain a certificate of registration for a potentially dangerous or dangerous dog.
- (3) Seizure. As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous dog if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the dog 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.
- (4) Reclaiming Dog. A dangerous dog seized under Section C(3), may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under Section (C), are fulfilled. A dog not reclaimed under this section within 14 days may be disposed of as provided under Section B(4), and the owner is liable to the city for costs incurred in confining and impounding the dog.
- (5) Subsequent offenses. If an owner of a dog has subsequently violated the provisions under Section C(2) with the same dog, the dog must be seized by animal control. The owner may request a hearing as defined in Section B(4). If the owner is found to have violated the provisions for which the dog was seized, the Animal Control Officer shall order the dog destroyed in a proper and humane manner and the owner shall pay the costs of confining the dog. If the person is found not to have violated the provisions for which the dog was seized, the owner may reclaim the animal under the provisions of Section C(4). If the dog is not yet reclaimed by the owner within 14 days after the date the owner is notified that the dog may be reclaimed, the dog may be disposed of as provided under Section B(4) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the dog.

d) Exemptions.

- (1) Dogs may not be declared potentially dangerous or dangerous if the threat, injury or damage was sustained by a person:
 - (a) Who was committing at the time a willful trespass or other tort upon the premises occupied by the owner of the dog;
 - (b) Who was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly in the past provoked, tormented, abused or assaulted a dog; or
 - (c) Who was committing or attempting to commit a crime.
- (2) Law Enforcement Exemption. The provisions of this section do not apply to dogs used by law enforcement officials for police work.

d) Penalty.

- (1) Any person who violates any provisions of this subdivision is guilty of a misdemeanor.
- (2) It is a misdemeanor to do any of the following:
 - (a) To remove a microchip from a dangerous or potentially dangerous dog, to fail to renew the registration of a dangerous dog, to fail to account for a dangerous dog's death, or removal from the jurisdiction;
 - (b) To sign a false affidavit with respect to a dangerous dog's death or removal from the jurisdiction, or fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.

Subd. 13. Reserved for future use.

Subd. 14. Reserved for future use.

Subd. 15. Prohibited Wild Animalsa) Prohibited Wild Animals.

- (1) It shall be unlawful to keep any wild animal within the City limits, except as permitted pursuant to the provisions of this subdivision.
- (2) As used in this section, "wild animal" shall have the following meaning: Any animal, mammal, amphibian or reptile which is of a species which is wild by nature or of a species which due to size, vicious nature or other characteristics is inherently dangerous to human beings. Examples of wild animals, without limitation, are:
 - (a) Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except domestic house cats;
 - (b) Any member of the family Canidae, such as wolves, hybrid wolves, coyotes, dingoes and jackals, except domesticated dogs;
 - (c) Any crossbreed such as crossbreeds between dogs and coyotes, dogs and wolves, but does not include crossbred domesticated animals where both parents are domesticated dogs;
 - (d) Any poisonous snake including but not limited to rattlesnakes, coral snakes, water moccasins, puff adders or cobras;
 - (e) Any skunk, raccoon, fox or animal protected under State of Minnesota or Federal wildlife regulations;
 - (f) Any bear, ape, monkey in excess of five (5) pounds, or badger;
 - (g) Any porcine including but not limited to pot-bellied pigs.
 - (h) Any other animal, bird, or reptile, including pythons, which are commonly considered wild and not domesticated.
- (3) Exceptions to the Definition of Wild Animals are:
 - (a) Nonpoisonous snakes, domesticated birds, hamsters, mice, rabbits, lizards, spiders and other similar small animals capable of being kept in cages including rats, if purchased from a bona fide pet store.
 - (b) Service animals, provided that the owner has a medically recognized and diagnosed disability and the service animal is performing a task by either guiding the blind, signaling the hearing impaired, or performing a task for which a disabled person requires assistance.
 - (c) Wildlife rehabilitators may only possess animals with a Minnesota Department of Natural Resources permit. Such animals will be kept in a manner as to not create unsanitary conditions or unreasonable noise.

- (d) Birds and birds of prey if kept pursuant to a valid US Fish and Wildlife Services permit.
 - (e) Animals kept under subparagraphs a and b of this paragraph shall be kept in the primary structure of a property and may not be kept in any accessory structure.
- (4) Other Unlawful Act. It is unlawful for any person to keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.

900.03. Kennels. Subdivision 1. Declaration of Nuisance. The keeping of three or more dogs, cats, or any combination thereof 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, and the irresponsible maintenance of three or more animals within a residential area has been the source of a variety of complaints. The keeping of three or more dogs, cats, or any combination thereof on one premises is hereby declared to be a nuisance and is hereby subject to the restrictions contained herein.

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

- (a) "**Commercial Kennel**" means a place where three or more dogs, cats or any combination thereof are kept on the same premises, whether owned by the same person or not, for the business of selling, boarding for a fee, breeding for sale, or some other enterprise intended primarily for profit-making purposes. The term "Commercial Kennel" shall include pet stores, but shall not include pet grooming shops, animal hospitals, or veterinary clinics.
- (b) "**Hobby Kennel**" means a place where three or more dogs, cats, or any combination thereof over six months of age are kept when not a commercial kennel.

Subd. 3. License Requirements.

- (a) It is unlawful for any person to keep or maintain a Commercial or Hobby Kennel in the City except upon obtaining a kennel license from the Council.

- (b) Application for such licenses shall be made to the City Administrator and shall be accompanied by the license fee as established by the Council.
- (c) All kennels must conform to statutes and regulations of the State of Minnesota, the City Code, or any agencies of the City having jurisdiction over such matters such as fire control, cleanliness, temperature control, waste disposal, structure specifications, diet, and animal treatment. Waste shall not be permitted to accumulate so as to create any odor detectable by adjoining property owners. All kennels shall be kept in a clean and healthful condition at all times and shall be open for inspection by duly authorized City authorities at any reasonable time.
- (d) A Commercial Kennel license shall only be granted in the commercial zoning districts.
- (e) A Hobby Kennel license may be issued in a residential zoning district, provided that the number of animals does not exceed four and the Council finds that the proposed operation will not adversely affect surrounding properties.
- (f) The Council may impose such conditions as it shall deem necessary and appropriate to carry out the intent of this Chapter. A kennel license may be revoked by the Council by reason of the violation of this Section, State law, or any regulation relating thereto.

Subd. 4. Insurance. No Commercial or Hobby Kennel license shall be issued until such time as the applicant provides to the City Administrator a liability insurance policy of \$100,000.00 for all damages arising out of bodily injuries to, or death of, one person, and \$300,000.00 for all damages arising out of bodily injuries to, or death of, two or more persons in any one incident arising out of or caused by the kennel operation, together with property damage liability insurance in the amount of \$100,000.00. Copies thereof or appropriate insurance certificates shall be delivered to the City Administrator's office prior to any annual renewal of such kennel license. The City reserves the right to revisions upward or downward in the minimum insurance requirement hereinafter set forth by City resolution or ordinance.

Subd. 5. Tags. Licensees shall affix an identification tag to all dogs and cats owned by or under the control of licensee. Such identification tag shall at a minimum contain the name, address, and telephone number of the licensee.

Subd. 6. Vaccination. The licensee shall cause every dog and cat in the kennel to be vaccinated by a licensed veterinarian with anti-rabies vaccine. Puppies and kittens shall be so vaccinated at or before the age of sixteen weeks and again at the age of one year. Adult animals shall be so vaccinated at least once in every twenty-four month period or as often as needed under the type of vaccine to insure immunity. Rabies vaccination tags shall be affixed as set out in Subdivision 5, above.

Subd. 7. Penalties. Any person who maintains a kennel without first obtaining a license therefore, or after the license is revoked or not renewed, shall be guilty of a misdemeanor.

900.05. Prohibition of the Keeping of Agricultural Animals. Subdivision 1. It is unlawful for any person to keep or harbor any horses, cattle, sheep, goats, pigs, turkeys, mules, donkeys, llamas, alpacas, other fowl, or other animal commonly kept for agricultural purposes, except for chickens, within the city limits, except as permitted as a Conditional or Interim Use in an industrial zone.

Subd. 2. Permit Fee. The fee for such permit shall be in the amount adopted by resolution of the Council and shall be payable when the written application therefore is submitted to the Clerk Administrator for approval by the Council.

Subd. 3. Regulations. The permit holder shall comply with the following regulations:

- (a) No stable, barn or building in which horses, cattle, sheep, goats, pigs, mules, donkeys, rabbits, turkeys or other fowl are kept may be located within 50 feet of human habitation.
- (b) Such stables, barns or other buildings shall be kept clean. Manure and droppings shall be removed with sufficient frequency to avoid nuisance from odors or from breeding of flies.
- (c) Wherever domestic animals or fowl of any kind are kept, they shall be securely confined within an enclosure by the owner thereof and no domestic animals shall be allowed to stray or feed upon the streets, or property abutting the streets or alleys.

Subd. 4. Other Unlawful Act. It is unlawful for any person to keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.

900.07. Chickens. Subdivision 1. Definitions. The term “chicken coop” means a temporary structure for housing chickens made of wood or other materials that provides shelter from the elements. The term “chicken run” means a fenced outside area for keeping chickens. The term “premises” means any platted lot or group of contiguous lots, parcels, or tracts of land.

Subd. 2. Chickens limited. No person shall keep or harbor more than five hen chickens on any premises. Roosters may only be present on a premises that also has hen chickens for no longer than 48 hours for the purpose of breeding, and must be removed for a period of no less than 14 days.

Subd. 3. Confinement. Chickens must be confined at all times in a chicken coop or chicken run. Chicken coops and chicken runs shall comply with the following requirements:

- (1) Setback. The location of the chicken coop or run shall comply with the setback requirements for accessory structures in the zoning district in which the property lies.
- (2) Chicken coops. Chicken coops must not exceed 60 square feet (by outside dimensions) or six feet in height, and must provide at least two square feet per chicken. Coops must be elevated with a clear open space of at least 24 inches between the ground and the floor or framing of the coop. The coop’s floor, foundation, and footings must be constructed to make the coop rodent-resistant.
- (3) Chicken runs. Chicken runs must not exceed 120 square feet or six feet in height, and may be enclosed with wood or woven wire.
- (4) Screening. All chicken coops and chicken runs shall be screened with a solid fence or landscaped buffer with a minimum height of four feet.
- (5) Feed. Chicken feed must be stored in rodent-proof and raccoon-proof containers.

Subd. 4. Conditions. The premises where chickens are kept must be maintained in a healthy and sanitary condition, and in a manner that will prevent noxious or offensive odors from being carried to adjacent properties.

Subd. 5. Inspection. Any chicken coop or chicken run may be inspected at any reasonable time by the City, or its designated inspector, to determine compliance with these provisions.

Subd. 6. Exception. The provisions of this subsection do not apply to bona fide poultry farms that grow and/or raise chickens for commercial purposes.

Subd. 7. Penalty. Any violation of this subsection is a misdemeanor.

SECTION 905 - DISCHARGE OF FIRE ARMS

905.01. Definitions. For purposes of this section the term "fire arm" means any shot gun, rifle, semi-automatic rifle, pistol or any other mechanism which makes use of gun powder to propel a projectile through the air, and the term "air gun" means any devise that uses air or gas to propel a projectile through the air. This definition includes a BB gun, pellet gun, pellet pistol or pellet BB or BB pistol or air rifle.

905.03. Prohibited acts. Subdivision 1. It is unlawful to discharge a fire arm in the city.

Subd. 2. Persons under 16. It is unlawful for any person under the age of 16 years old to discharge an air gun or pellet gun.

SECTION 910 - CURFEW

910.01. Findings and purpose. Subdivision 1. In recent years, there has been a significant increase in juvenile victimization and crime. At the same time, the crimes committed by and against juveniles have become more violent. A significant percentage of juvenile crime occurs during curfew hours.

Subd. 2. Because of their lack of maturity and experience, juveniles are particularly susceptible to becoming victims of older perpetrators. The younger a person is, the more likely the juvenile is to be a victim of crime.

Subd. 3. While parents have the primary responsibility to provide for the safety and welfare of juveniles, the city also has a substantial interest in the safety and welfare of juveniles. Moreover, the city has an interest in preventing juvenile crime, promoting parental supervision and providing for the well being of the general public.

Subd. 4. A city-wide curfew will reduce juvenile victimization and crime and will advance public safety, health and general welfare.

910.03. Definitions. Subdivision 1. "Juvenile" means a person under the age of 18. The term does not include persons under 18 who are married or have been legally emancipated.

Subd. 2. "Parent" means birth parents, adoptive parents and stepparents.

Subd. 3. "Guardian" means an adult appointed pursuant to Minnesota Statutes, sections 525.6155 or 525.6165 who has the powers and responsibilities of a parent as defined by Minnesota Statutes, section 525.619.

Subd. 4. "Responsible adult" means a person 18 years or older specifically authorized by law or by a parent or guardian to have custody and control of a juvenile.

Subd. 5. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Subd. 6. "Emergency" means a circumstance or combination of circumstances requiring immediate action to prevent property damage, serious bodily injury or loss of life.

Subd. 7. "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any body part or organ.

Subd. 8. "Establishment" means any privately-owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment or refreshment.

Subd. 9. "Proprietor" means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

910.05. Prohibited acts. Subdivision 1. It is unlawful for a juvenile under the age of 12 to be present in any public place or establishment within the city:

- a) any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 a.m. of the following day;
- b) any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

Subd. 2. It is unlawful for a juvenile, age 12 to 14, to be present in any public place or establishment within the city:

- a) any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 a.m. of the following day;
- b) any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

Subd. 3. It is unlawful for a juvenile, age 15 to 17, to be present in any public place or establishment within the city:

- a) any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 a.m. of the following day;
- b) any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

Subd. 4. It is unlawful for a parent or guardian of a juvenile to knowingly permit, or through negligent supervision or by insufficient control, allow the juvenile to be in any public place or any establishment within the City during the hours prohibited in subdivisions 1, 2 and 3. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

Subd. 5. It is unlawful for a proprietor of an establishment within the city to knowingly permit a juvenile to remain in the establishment or on the establishment's property during the hours prohibited in subdivisions 1, 2 and 3 of this section.

Subd. 6. If the proprietor is not present at the time of the curfew violation, the responding officer must leave written notice of the violation with an employee of the establishment. A copy of the written notice must be served upon the establishment's proprietor personally or by certified mail.

910.07. Defenses. Subdivision 1. It is an affirmative defense for a juvenile to prove that:

- a) the juvenile was accompanied by the juvenile's parent, guardian or other responsible adult;
- b) the juvenile was engaged in a lawful employment activity or was going to or returning home from the juvenile's place of employment;
- c) the juvenile was involved in an emergency situation;
- d) the juvenile was going to, attending or returning home from an official school, religious or other recreational activity either sponsored or supervised, or both, by a public entity or a civic organization;
- e) the juvenile was on an errand at the direction of a parent or guardian;
- f) the juvenile was exercising First Amendment rights protected by the United States Constitution or Article I of the Constitution of the State of Minnesota;
- g) the juvenile was engaged in interstate travel;
- h) the juvenile was on the public right-of-way boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure or residence.

Subd. 2. It is an affirmative defense for a proprietor of an establishment to prove that:

- a) the proprietor or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minnesota Statutes, 340A.503, subdivision 6, or other verifiable means, including, but not limited to, school identification cards and birth certificates;
- b) the proprietor or employee promptly notified the responsible police agency that a juvenile was present on the premises of the establishment during curfew hours.

910.09. Family curfew. The parents, guardian or legal custodian of a person under the age of 18 may designate an earlier curfew which has the effect of law for that person.

910.11. Penalty. Subdivision 1. Violation of subsection 910.05, subdivisions 1, 2 or 3 will be prosecuted pursuant to Minnesota Statutes, section 260.195 and will be subject to the penalties therein.

Subd. 2. Violation of subsection 910.05, subdivisions 4 or 5 is a misdemeanor and will be subject to the penalty set forth in Minnesota Statutes, section 609.03.

910.13. Review. The city council will conduct yearly reviews of this section to assess the effectiveness of and continuing need for a juvenile curfew. Prior to the annual review, the city prosecuting attorney must prepare and submit a report to the council evaluating violations of this section and juvenile crime and victimization during the preceding year.

SECTION 915 - BURNING OF LEAVES

915.01. Burning of leaves permitted. The burning of dried leaves is permitted in the city in accordance with conditions set forth in this section.

915.03. Time. The burning of dried leaves may occur from sun-up to 8:00 p.m. beginning with the 15th day of September and ending with the 1st day of December of each year subject to cancellation as provided in section 915.05.

915.05. Declaration of air pollution or fire danger alert. Subdivision 1. Air pollution alert. Burning of leaves may not take place during an air pollution alert, warning or emergency declared by the Minnesota pollution control agency.

Subd. 2. Fire danger alert. Burning of leaves may not take place during a fire danger alert declared by the fire chief or by the Minnesota department of natural resources.

Subd. 3. Public notice. Notice of any fire danger alert or of any air pollution alert warning or emergency must be broadcast periodically on any day during which open burning of leaves would be permitted.

915.07. General precautions against fire. Subdivision 1. Kindling of fire on property of other restricted. It is unlawful to ignite or burn any dried leaves upon the property of another without the permission of the owner thereof.

Subd. 2. Burning on public property. It is unlawful to ignite or burn any dried leaves on any publicly owned or controlled lot or parcel of land, public bridge, street, sidewalk or other public place which has not been set aside by public authorities for such purpose.

Subd. 3. Location restricted. It is unlawful to ignite or maintain any fire permitted by this section or authorize any such fire to be ignited or maintained on any private land unless:

- a) the fire is contained in an approved waste burner located safely not less than 15 feet from any structures, or
- b) the location is not less than 30 feet from any structure and adequate provision is made to prevent fire from spreading to within 30 feet of any structure.

Subd. 4. Attendance of fire. Any fire authorized by this section must be constantly attended by a competent person until such is extinguished. This person must have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use.

Subd. 5. Dried leaves only. It is unlawful to kindle or maintain any fire permitted by this section or authorize such fire to be ignited or maintained if the material to be burned consists of anything other than dried leaves.

915.09. Approved waste burners. An approved waste burner for the purpose of this section must be constructed of fire resistant material, have a capacity of at least three bushels, be maintained with a minimum burning capacity of at least two bushels and have a cover which is closed when in use and openings in the top or sides of one inch maximum diameter. Combustible materials may not be nearer than three feet to the burner or incinerator when in use.

915.11. Penalties. Violation of a provision of this section is a petty misdemeanor. The third violation and all subsequent violations within a one-year period of time are a misdemeanor.

SECTION 920 - RECREATIONAL FIRES - REGULATIONS.

920.01. Open fires for recreational purposes will be allowed in the City of West Concord without the need to acquire a permit.

920.02. The City Fire Chief or Police Officer and/or designee may perform periodic on-site inspections.

920.03. Open fire for recreational purposes must satisfy the following requirements: The Fire Chief, Police Officer or its designee is authorized to require that recreational fires be immediately discontinued if smoke emissions are offensive to occupants of surrounding properties or if the Fire Chief, Police Officer or its designee determines that the fire constitutes a hazardous condition.

Subd. 1. Size: The fire may not exceed (3) feet in diameter or three (3) feet in height.

Subd. 2. Setbacks: The fire must be located at least 15 feet from the nearest structure and at least 15 feet from the nearest motor vehicle.

Subd. 3. Burning Area: The fire must be placed in a fire pit which shall be 6 inches deep and 3 feet in diameter, or in a non-combustible fire ring six (6) inches in height and (3) feet in diameter.

Subd. 4. Material: Clean wood only may be used for an open fire for recreational purposes:

- No yard waste (brush smaller than one inch in diameter, leaves, grass clippings); See Ref Ord 915.03 Leaf Burning
- No refuse, rubbish, paper;
- No oil, rubber or similar smoke producing material.

Subd. 5. Curfew: Open fires for recreational purposes may not be conducted between midnight and 6:00 am. Sunday through Thursday and 2:00 am. and 6:00 am. Friday through Saturday.

Subd. 6. Supervision: Fire must be constantly attended by an individual over 18 years of age until extinguished.

Subd. 7. Approval: No person shall kindle a fire upon the land of another without first obtaining written permission of the property owner or legal property designate.

Subd. 8. Control A means of controlling the fire (such as a hose or bucket of water) must be available at the site at the time of the fire.

Subd. 9. Smoke: A recreational fire shall be extinguished immediately if it generates smoke that becomes a nuisance to adjacent or nearby properties, including imposition of smoke into a neighboring structure.

Subd. 10. All fires when finished must be extinguished. When extinguished, the fire must not be allowed to smolder.

920.04 Penalties: Violation of the recreational fire laws could result in the loss of the right to have recreational fires and may cause a citation to be issued. In the event deemed by the Fire Chief, Police Officer or designee that any campfire is not within the scope of the ordinance, those conducting the negligent campfire or the city will put out the campfire at the residence owners cost if the fire department is called to put out the fire. If after (3) three times within a year the Fire Chief; Police Officer or designee have been called to investigate the Campfire and in their estimation feel the camp fire is negligent, the residence can no longer produce a campfire for one year starting from the day of the last wanting.