

## CHAPTER 10

### PUBLIC PROTECTION, CRIMES AND OFFENSES

#### SECTION 10.01. DANGEROUS WEAPONS AND ARTICLES.

**Subd. 1. 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.** Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club; or,

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

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

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

**G.** Permit, as a parent or guardian, any child under fourteen (14) years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or,

**H.** Furnish a minor under eighteen (18) years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department; or,

**I.** Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck, sharp stud or splat gun. For the purposes of this Subparagraph, (1) a "throwing star" means a circular metallic device with any number of points projecting from the edge, (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod, (3) a "sharp stud" means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed, and (4) a "splat gun" means a weapon which, by means of compressed air or gas, emits a projectile containing paint or other substance.

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

**Subd. 3. Discharge of Firearms and Explosives.** It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a B-B gun.

**Subd. 4. Exceptions.** Nothing in Subdivision 3 of this Section shall apply to the following:

A. A display of fireworks by an organization or group of organizations authorized in writing by the Council;

B. A peace officer in the discharge of his duty;

C. A person in the lawful defense of his person or family;

D. A discharge of firearms on a firearm range permitted or authorized in writing by the Council;

E. A discharge of a firearm by a color guard for a military funeral;

F. A discharge of a firearm by a color guard, military or police unit in connection with a parade permitted or authorized in writing by the City Council;

G. A discharge of firearms or explosives in connection with a show or assembly permitted or licensed by the City Council pursuant to Chapter 6, Section 6.20, or other appropriate provision of the City Code, specifically authorizing the activity at issue; or

H. A discharge of explosives in an educational setting under the direction of the school district and while on school property including, but not limited to, rocket launches.

Source: Ordinance No. 133, 2<sup>nd</sup> Series

Effective Date: 03-03-2011

**Subd. 5. Possession and Sale of Fireworks.** The term “fireworks” shall have the same definition as is set forth in Minnesota Statutes, Section 624.20, Subd. 1 (2002).

Source: Ordinance No. 42, 2<sup>nd</sup> Series

Effective Date: 07-18-02002

**Subd. 6. Exposure of Unused Container.** It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

**Subd. 7. Use of Bow and Arrow.** It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

## **SECTION 10.02. ANIMAL LICENSING & REGULATION.**

**Subd. 1. Definitions.** For the purpose of this section: (A) “Owner” means any person keeping, harboring, or having control of, or permitting any animal habitually to be or remain on, or be lodged or fed within, such person’s house, yard, premises, excluding veterinarians or kennel operators temporarily maintaining on their premises, for a period of 30 days or less, animals owned by others; (B) “Own” means to have a property interest in, or to harbor, feed, board, keep or possess; (C) “Dangerous Animal” means any animal which causes damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons, or, in the case of a dog, has been declared to be either a dangerous dog or a potentially dangerous dog by a City animal control officer or other law enforcement official; (D) “Dog” means both male and female, and includes any animal of the dog kind; (E) “Animal” means a dog or cat; (F) “Cat” means both male and female and includes any animal of the feline kind.

**Subd. 2. Running at Large Prohibited.** It is unlawful for the owner of any animal to permit such animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner 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 and under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building, or enclosure. Any cat shall be deemed to be running at large with the permission of the owner unless it is on the premises of the owner, or effectively confined within a motor vehicle, building, or enclosure.

**Subd. 3. License Required.** It is unlawful for the owner of any animal, four (4) months of age or more, to fail to obtain a license therefore from the City.

**Subd. 4. License Issuance, Term and Renewal.** All animal licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, showing rabies immunization of all animals for at least the term of the license. All animal licenses shall expire on September 30. Application for license renewal, accompanied by a veterinarian’s certificate shall be made at least 30 days prior to the expiration of the license. License fees shall become delinquent if unpaid after September 30; provided, however, that any person moving into the City after September 30 shall have 15 days from the date the animal is brought into the City to license such animal.

Source: Ordinance No. 138, 2<sup>nd</sup> Series  
Effective Date: 09-22-2011

**Subd. 5. Adoption of Fees.** All fees for the licensing, impounding and maintenance of animals, including penalties for late application, 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 City Administrator and open to inspection during regular business hours.

**Subd. 6. Tag Required.** All licensed animals shall wear a collar and have a tag firmly affixed thereto evidencing a current license. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing the payment of the duplicate license fee. Tags

shall not be transferable, and no refund shall be made on any license fee because of leaving the City or death of the animal before the expiration of the license.

**Subd. 7. Animal Pound.** Any animal found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Animal Pound, and an accurate record of the time of such placement shall be kept on each animal. Every animal so placed in the Animal Pound shall be held for redemption by the owner for at least five (5) regular business days. A "regular business day" is one during which the Pound is open for business to the public for at least four hours between 8:00 o'clock A.M. and 7:00 o'clock P.M. Impoundment records shall be preserved for at least six (6) 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 (3) months of age or over was received; and, (5) the name and address of the person to whom any animal three (3) months of age or over was transferred. If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is 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. Provided, further, that an unclaimed animal may be released after the redemption period expires to a person requesting same if the Pound Master deems the animal to be healthy, and after immunization and payment of license fees and impoundment charges.

**Subd. 8. Notice of Impounding.** Upon the impounding of any animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five (5) days at the City Hall describing the animal and the place and time of taking.

**Subd. 9. Release From Animal Pound.** Animals shall be released to their owners, as follows:

**A.** If such animal is owned by a resident of the City, after purchase of a license, if unlicensed, and payment of the impounding fee, maintenance, and immunization fee.

**B.** If such animal is owned by a person not a resident of the City, after immunization of any such animal for rabies, and payment of the impounding fee and maintenance.

**Subd. 10. Seizure by a Citizen.** It is lawful for any person to seize and impound an animal so found running at large and shall within six (6) hours thereafter notify the Pound Master of said seizure. It shall be the duty of the Pound Master to place said animal in the City Pound. If the name of the owner of such animal so seized is known to the person who first takes such animal into custody, he or she shall inform the Pound Master of the name of the owner, and the address if known.

**Subd. 11. Immobilization of Animals.** For the purpose of enforcement of this Section any peace officer or person whose duty is animal control may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.

**Subd. 12. Other Unlawful Acts.** It is unlawful for the owner of any animal to (A) fail to have the license tag issued by the City firmly attached to a collar worn at all times by the

licensed animal; or (B) to interfere with any police officer or other City employee, in the performance of their duty to enforce this section; or (C) fail to keep their dog from barking, howling or whining; or (D) fail to keep their cat from emitting loud or unusual noise.

**Subd. 13. Summary Destruction.** If an animal is diseased, vicious, dangerous, rabid or exposed to rabies, or an animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

**Subd. 14. Rabies Control - Generally.**

**A.** Every animal which bites a person shall be promptly reported to the Chief of Police or Pound Master and shall thereupon be securely quarantined at the direction of the Chief of Police or Pound Master for a period of fourteen (14) days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the Chief of Police, such quarantine may be on the premises of the owner or at the veterinary hospital of his choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of an animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion of the Chief of Police the animal may be confined in a veterinary hospital designated by him.

**B.** The owners, upon demand made by the Pound Master or by any other City employee empowered by the Council to enforce this Section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.

**C.** When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.

**D.** The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.

**Subd. 15. Reports of Bite Cases.** It is the duty of every physician, or other practitioner, to report to the Chief of Police the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

**Subd. 16. Responsibility of Veterinarians.** It is the duty of every licensed veterinarian to report to the Chief of Police his diagnosis of an animal observed by him as a rabies suspect.

**Subd. 17. Police Dogs, Seeing-Eye Dogs.** The provisions of this Section shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police

activities of the City, such as canine corps or tracking dogs used by or with the permission of the Police Department.

**Subd. 18. Animals in Heat.** Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with other animals.

**Subd. 19. Potentially Dangerous & Dangerous Dogs.**

**A. Definitions.** i) Owner. “Owner” means any person keeping, harboring, or having control of, or permitting any animal habitually to be or remain on, or be lodged or fed within, such person’s house, yard, premises, excluding veterinarians or kennel operators temporarily maintaining on their premises, for a period of 30 days or less, animals owned by others.

ii) Attack. “Attack” shall mean the deliberate action of a dog, whether or not in response to a command by a person, to bite, to seize with its teeth, or to pursue any human, animal, or inanimate object, with the intent to destroy, kill, wound, injure, or otherwise harm the object of its action.

iii) Proper Enclosure. “Proper Enclosure” means securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and shall provide protection from the elements for the animal. 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 the windows are open or in which door or window screens are the only obstacles that prevent the animal from exiting.

iv) Dangerous Dog. “Dangerous Dog” means any dog that has:

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

2) Killed a domestic animal without provocation while off the owner’s property; or

3) Been found to be potentially dangerous, and after the owner has noticed that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

v) Potentially Dangerous Dog. “Potentially Dangerous Dog” means any dog that:

1) When unprovoked, inflicts a bite on a human or domestic animal on public or private property;

2) When unprovoked, chases or approaches a person, including a

person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

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

vi) Substantial Bodily Harm. "Substantial Bodily Harm" has the meaning given to it under M.S.A. §609.02, Subd. 7a.

vii) Animal Control Authority. "Animal Control Authority" means any agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

viii) Provocation. "Provocation" means an act that an adult could reasonably expect may cause a dog to attack or bite.

ix) Great Bodily Harm. "Great Bodily Harm" has the meaning given to it under M.S.A. §609.02, Subd. 8.

## **B. Potentially Dangerous Dogs.**

ii) Notice of Declaration to Owner. Upon a determination by an animal control officer or other law enforcement official that a dog is potentially dangerous, the City shall serve notice of the potentially dangerous dog designation on the owner of such dog. Notice shall be served upon the owner of the dog personally or by certified mail. Service upon any owner is effective as to all owners. The notice must include:

1) A description of the dog and the authority and purpose for the potentially dangerous dog declaration; the time, place and circumstances that resulted in the dog being declared a potentially dangerous dog; and the telephone number of the person who made the declaration that the dog is a potentially dangerous animal;

2) A statement that the owner of the dog may request a hearing concerning the potentially dangerous dog declaration, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this Section;

3) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of this Ordinance regarding potentially dangerous dogs and continue to do so until such time as the hearing officer issues an opinion on the appeal;

4) A form to request a hearing under this subdivision; and

5) A statement that any hearing must be held within 14 days of the request to determine the validity of the potentially dangerous dog declaration. That the hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the hearing. A statement that in the event the potentially dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner. A statement that the hearing

officer shall issue a decision in the matter within 10 days after the hearing, and that the decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical, and a copy must be provided to the City's animal control authority.

**Section 2.** City Code, Chapter 10, Section 10.02, Subd. 19(C)(ii), is hereby amended to read as follows:

**C. Dangerous Dog.**

ii) Notice of Declaration of Dangerous Dog to Owner. Notice shall be served upon the owner of the dog personally or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. Service upon any owner is effective as to all owners. The notice must include:

1) A description of the seized dog; the authority for and purpose of the dangerous dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous; and the telephone number and contact person where the dog is kept;

2) A statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;

3) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of this Ordinance and M.S.A. §347.52, paragraphs (a) and (c), and continue to do so until such time as the hearing officer issues an opinion on the appeal;

4) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of the decision to comply with all requirements of M.S.A. §347.51, §347.515, and §347.52;

5) A form to request a hearing under this subdivision; and

6) A statement that all actual costs of care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

Any hearing must be held within 14 days of the request to determine the validity of the dangerous dog declaration. The hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the hearing. In the event the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner. The hearing officer shall issue a decision in the matter within 10 days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy

Source: Ordinance No. 138-A, 2<sup>nd</sup> Series

Effective Date: 10-06-11

**D. Leash & Muzzle.** An owner of a potentially dangerous or dangerous dog shall keep the dog, when not confined in a proper enclosure, muzzled and restrained by a leash not longer than four (4) feet and under the physical restraint of a responsible person.

**E. Exemption.** A dog shall not be declared a potentially dangerous or dangerous dog if the threat, injury, or damage was sustained by a person: (a) who was committing, at the time, an unlawful 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 the dog; or (c) who was committing or attempting to commit a crime.

**F. Law Enforcement; Exemption.** The provisions of this section do not apply to dogs used by law enforcement officials for law enforcement work.

**G. Appeal of Potentially Dangerous or Dangerous Dog Designation.** Within 14 days after receipt of notice of a potentially dangerous or dangerous dog declaration, the owner may request a hearing to appeal the designation. The request must be in writing filed with the City Administrator.

**H. Appeal Hearing Procedure.** i) Setting Hearing Date. In the event an appeal is filed with the City Administrator, a hearing shall be scheduled within two (2) weeks of the date the request for appeal is received.

ii) Notice of Hearing Date. In the event that an appeal is filed, notice shall be mailed to the owner stating the date, time, place and subject of the hearing.

iii) Designated Hearing Officer. The City Administrator or a designated hearing officer shall convene a hearing at which time the dog owner shall have the opportunity to present evidence and testimony to support the appeal of the potentially dangerous or dangerous dog designation. The hearing officer may receive evidence and testimony from the animal control officer or law enforcement official and other parties who wish to be heard.

iv) Written Recommendation. Upon receiving the evidence and testimony, the hearing officer shall make a written recommendation to the City Council which may confirm, or rescind the potentially dangerous or dangerous dog designation.

v) Requirements of Owner Pending Appeal. During the pending appeal, an owner of a declared potentially dangerous or dangerous dog shall comply with the following requirements:

a) Proper Enclosure. An owner of a declared potentially dangerous or dangerous dog, pending appeal, shall keep the dog in a proper enclosure that has been inspected and approved by the City.

b) Leash & Muzzle. An owner of a declared potentially dangerous or dangerous dog, pending appeal, shall keep the dog, when not confined in a proper enclosure, muzzled or restrained by a substantial leash not longer than four (4) feet and under the physical restraint of a responsible person.

**I. Confiscation.** i) Seizure. The animal control officer or law enforcement official shall immediately seize any potentially dangerous or dangerous dog if, after 14 days after the owner has notice of the designation, and the owner has not filed an appeal of the designation, and: (a) the dog is not validly registered under this section; (b) the dog is not maintained in the proper enclosure; (c) the dog is outside the proper enclosure and not under physical restraint of a responsible person as required under this section; (d) the owner does not secure the proper surety bond or liability insurance as required under this section; or (e) the owner is required to sterilize the dog and fails to do so.

ii) Reclamation. An owner may reclaim a potentially dangerous or dangerous dog seized under this section, by paying impounding and boarding fees and presenting proof to the City that the requirements of this section have been met. The City may dispose of a dog not reclaimed within 7 days and the owner is liable to the City for the costs incurred in confining and disposing of the dog.

**J. Destruction of Dog in Certain Circumstances.** A dog that has previously been declared a potentially dangerous or dangerous dog that inflicts substantial or great bodily harm on a human being on public or private property without provocation may be destroyed in a proper and humane manner by the animal control officer. The animal control officer may not destroy the dog until the dog owner has had an opportunity for a hearing on an appeal under the provisions of this Ordinance. Upon determination following appeal that destruction is appropriate, the owner of the dangerous dog shall pay the costs incurred in confiscation, boarding and destruction.

**K. Fees.** The City may charge the owner an annual fee in addition to any regular dog license, to obtain a certificate of registration for a potentially dangerous or dangerous dog under this section. Fees may also be charged for signs and tags that are designated as the official symbol of a potentially dangerous or dangerous dog. Annual fees for registration, signs and tags, may be set by resolution of the City Council and amended by Council Resolution from time to time.

**L. Notice of Dog's Removal.** An owner of a potentially dangerous or dangerous dog must notify the animal control officer, in writing, of the death of the dog or its transfer to a new owner or jurisdiction within 30 days of the death or transfer. The owner shall provide the animal control officer, the name, address, and telephone number of the new owner, or address where the dog will reside in the new jurisdiction. An animal that has been removed from the City pursuant to this provision may not re-enter the City. If a dangerous dog is removed from the City, it must be registered as a dangerous dog in its new jurisdiction.

**M. Notice to Property Owner.** A person who owns a potentially dangerous or dangerous dog and who rents property from another where the dog will reside, must disclose to the property owner prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a potentially dangerous or dangerous dog that will reside on the property.

**N. Notice on Transfer.** A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the animal as dangerous. The current owner must also notify the animal control authority in writing of the transfer of ownership and provide the animal control authority with the new owner's name, address and telephone number.

Source: Ordinance No. 111, 2<sup>nd</sup> Series

Effective Date: 12-04-08

**SEC. 10.03. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.**

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

**1. "Farm Animals"** cattle, horses, mules, donkeys, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, rabbits, guinea hens and honey bees.

**2. "Animals"** includes farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, gerbils, hamsters and caged household birds.

**Subd. 2. Keeping.** It is unlawful for any person to keep or harbor any (1) farm animal within one hundred fifty (150) feet of a place of human habitation other than the dwelling occupied by the owner of such animals; or (2) bees or permit the keeping or harboring of such bees within five hundred (500) feet of the property line of any other property owner except when such bees are completely confined within an enclosed building. It is also unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the City zoned for agricultural purposes, or, (2) animals used in a parade for which a permit has been issued; or, (3) animals kept in a laboratory for scientific or experimental purposes, or, (4) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

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

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

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

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

**SEC. 10.04. ANIMAL WASTE.**

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

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

**2. "Animal"** means a dog, cat or other animal.

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

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

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

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

**SEC. 10.05. 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 in garbage receptacles without the consent of the owner, or, without the consent of the owner, private lands or water or ice thereon.

**SEC. 10.06. UNLAWFUL COLLECTION OF RECYCLABLES.** It is unlawful for any unauthorized person to collect recyclable materials from streets or private property.

**SEC. 10.07. MAINTENANCE OF INDIVIDUAL SEWERAGE SYSTEMS.** It is unlawful for the owner or tenant of any premises to permit an individual sewage disposal system to overflow, or expose the contents thereof above ground.

Source: City Code

Effective Date: 3-15-92

**SEC. 10.08. TOBACCO.**

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

**Subd. 2. Possession by Minor.** It is unlawful for any minor to have in his or her possession any tobacco, tobacco products, or tobacco related device. This Subdivision shall not apply to minor lawfully involved in a compliance check.

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

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

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

**B.** For any person to purchase or otherwise obtain such items on behalf of

a minor;

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

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

**E.** This Subdivision shall not apply to minors lawfully involved in a compliance check.

**Subd. 5. Use of False Identification.** It is a violation of this Section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

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

**Subd. 7. Minors.** Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be charged under the appropriate provisions of Minnesota Law.

Source: Ordinance No. 23, 2<sup>nd</sup> Series  
Effective Date: 06-18-1998

**(CODIFIER’S NOTE: See Chapter 6 for tobacco provisions relating to licensing.)**

**SEC. 10.09. TRESPASS AND UNLAWFUL CONDUCT ON PUBLIC PROPERTY.**

**Subd. 1. Definition.** For the purpose of this Section, “public property” means any place, property or premises dedicated to public use, owned by the City or by any governmental unit including, but not limited to, school districts, whether owned by the governmental unit or occupied by it as a lessee or by reason of an easement including (but not by way of limitation), streets, parks, parking lots, libraries, playgrounds, airports, holding ponds, public restroom areas, administrative offices and the like.

**Subd. 2. Unlawful Acts.** It is unlawful to:

**A.** Remain in or upon public property after having been requested to leave the premises by a person lawfully responsible for the control or maintenance thereof.

**B.** Harass, disrupt, interfere with, or obstruct any public or governmental business or function being conducted within or upon any public property.

**SEC. 10.10. TRESPASS IN PUBLIC SCHOOLS.**

**Subd. 1. Definition.** For the purpose of this Section:

1. **“Public School”** shall be any school building, school grounds, play area, parking lot or athletic field owned or leased by Independent School District #741.

2. **“School Official”** shall be the principal, assistant principal or any designated District #741 employee.

**Subd. 2. Unlawful Acts.** It is unlawful to:

A. Trespass in or upon any public school by remaining upon said school premises after being ordered to leave the public school by a school official.

B. Reenter public school property without the written permission of the school principal or the school official who gave the order to leave the public school after having been ordered by school officials to leave the public school and having left the premises.

Source: Ordinance No. 2, 2<sup>nd</sup> Series  
Effective Date: 05-20-1992

(Sections 10.11 through 10.18, inclusive, reserved for future expansion.)

(Pages 274 through 278 reserved)

## **SECTION 10.19. COMPOST SITE REGULATIONS.**

**Subd. 1. Purpose.** The purpose of this Ordinance is to regulate the materials dropped off by the members of the public and businesses making use of the City of Paynesville compost site to ensure that the site is receiving materials which can be used for the intended purpose of compost, and that non-acceptable materials are not left at the compost site.

**Subd. 2. Acceptable Materials.** Materials acceptable for being deposited or left at the compost site are leaves, grass trimmings, garden vegetation, tree prunings of branches less than 4” in diameter, lake weeds, pine cones, acorns, mulch, corn stalks, and sunflower stalks.

**Subd. 3. Materials that Are Not Acceptable.** Any materials which do not fit the definition of acceptable materials are not acceptable for deposit at the compost site. Materials that are not acceptable for deposit at the compost site specifically include garbage, plastic bags, construction materials and debris, tree stumps, shrub roots, tree branches or other parts of trees 4” in diameter or greater, and rocks.

**Subd. 4. Division of Materials.** Every member of the public or business using the compost site is responsible to divide their materials as follows:

a) Grass trimmings, leaves and garden vegetation are to be placed on the mulch pile.

b) All other acceptable materials are to be placed on the brush pile. If acceptable materials include a mixture of items which would otherwise be appropriate in part for the mulch pile and in part for the brush pile, the entire mixture shall be deposited on the brush pile.

**Subd. 5. Prohibited Dumping of Materials.** It shall be a violation of this Ordinance for any member of the public or business to deposit materials that are not acceptable at the compost site. Anyone depositing materials at the compost site shall be responsible for knowing what is included in the materials that they are depositing, for ensuring that it includes no materials that are not acceptable and for depositing the materials at the appropriate location.

**Subd. 6. Violations. a) Notice.** Upon discovery of a violation the alleged violator may be issued, either personally or by mail, an administrative citation setting forth the alleged violation, and which shall inform the alleged violator of his or her right to be heard on the accusation of the dumping of unacceptable materials at the compost site.

**b) Hearing.** If a person accused of violating this Ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

**c) Hearing Officer.** The City Council shall serve as the hearing officer.

**d) Decision.** If the hearing officer determines that a violation of this Ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Subd. 6 of this Ordinance, shall be recorded in writing, and a copy shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such finding shall be recorded and a copy provided to the accused violator.

**e) Appeals.** Appeals of any decision made by the hearing officer shall be filed in District Court in Stearns County, Minnesota.

**f) Misdemeanor Prosecution.** Nothing in this Section shall prohibit the City from seeking prosecution of a violation of this Ordinance as a misdemeanor. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

**g) Denial of Access to Compost Site.** In addition to any monetary penalty imposed, a person or business committing a second or subsequent violation may be subject to being denied future access to the compost site for a time to be set by the City Council.

**Subd. 7. Fines.** Any member of the public or business found to have violated the provisions of this Ordinance shall be subject to an administrative fine of \$250.00 for a first violation and \$500.00 for a second or subsequent violation within 24 months of a first violation.

Source: Ordinance No. 155, 2<sup>nd</sup> Series  
Effective Date: 04-06-16

## **SECTION 10.20. SHADE TREE DISEASE CONTROL AND PREVENTION.**

**Subd. 1. Policy and Purpose.** The City has determined that the health of various species of trees is threatened by various diseases and that the City, through its Park & Tree Committee, should monitor, study and investigate the urban forest, including trees on public and private property within the City to prevent the spread of disease, provide for the removal of diseased trees which are hereby declared to constitute a public nuisance, and to further regulate planting, trimming and, where necessary, removal of trees, plants and shrubs as well as wood from dead or diseased trees, plants and shrubs.

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

**a) Park & Tree Committee.** The Park & Tree Committee is a committee existing under the provisions of Chapter 2, Section 2.44 of the City Code, to perform those duties and responsibilities assigned to the Committee by the City Council.

**b) City Tree Inspector.** The City Administrator may designate an employee of the City or committee member who shall be qualified and certified by MN DNR to serve as the City tree inspector.

**c) Nuisance.** (1) Any living or standing tree, plant or shrub, infected to any degree with a disease; or (2) Any logs, branches, stumps or other parts of any dead or dying tree, plant or shrub so infected, unless such parts have been fully burned or treated under the direction of the tree inspector.

**d) Boulevard.** The area within the public right of way between the paved street and the adjoining line of the land of the abutting property owner.

**e) Street or Highway.** The entire width of the paved area within the right of way.

**f) Property Line.** This is the line where the private property meets the road right of way.

**g) Public Trees.** Public trees are all shade and ornamental trees now or hereafter growing within any right of way, park or other public property.

**h) Right of Way.** The entire area dedicated, deeded or otherwise conveyed by easement or by any other means to the City for public purposes including the paved street, sidewalk and boulevard areas.

**i) Large Trees.** This shall include such trees as may be designated on a list of acceptable large trees adopted by resolution of the City Council from time to time.

**j) Small Trees.** This shall include such trees as may be designated on a list of acceptable small trees adopted by resolution of the City Council from time to time.

**k) Urban Forest.** The collection of trees, shrubs and other vegetation and associated natural features that make the urban canopy and its growing zone.

**l) Inspection, Diagnosis & Abatement.** It is within the powers and duties of the City Tree Inspector to enter upon public or private property at any reasonable time for the purpose of inspecting, diagnosing, and if necessary, abating the spread of disease from diseased trees, plants or shrubs, or from the wood of dead or diseased trees, plants or shrubs. The City Tree Inspector may remove such specimens or samples as may be necessary or desirable for diagnosis.

**Subd. 3. Duties & Responsibilities.** The Park & Tree Board shall study and investigate the urban forest including problems involving the tree population, make determinations regarding the appropriate needs and appropriate composition of the urban forest and annually review a community tree plan and seek ways to implement the plan and complete needed work. The Committee shall make recommendations to the Council of the type and number of trees to be planted on each municipal boulevard or within City parks or on other public lands. The Committee shall further assist in the dissemination of news and information regarding the selection, planting and maintenance of trees within the City limits, whether on private or public property. The Committee shall recommend fines for the unlawful removal of trees. The Committee may engage in other activities in pursuit of its mission which will benefit the urban forest including the following:

- a) Applying for Tree City USA status with the National Arbor Day Foundation.
- b) Conduct seminars and public education programs.
- c) Plan and coordinate an annual Arbor Day observance.
- d) Develop a community tree bank.
- e) Organize community tree planting projects.
- f) Seek grant money, public funding and private contributions to further the work of the community tree plan. No action of the Tree Committee is final until it has been approved by the City Council.

**Subd. 4. Planting Permits.** No tree may be planted on public property within the City of Paynesville without a written permit. Copies of issued permits shall be kept and reviewed by the Tree Committee from time to time.

**Subd. 5. Spacing & Location of Trees.**

a) No tree shall be placed so as to cause a traffic hazard. Generally the Tree Committee will not issue permits for the planting of trees less than 25 feet apart. No tree will be permitted closer than 30 feet to any street corner, measured from the point of the nearest intersecting curb or curb lines. No trees shall be planted within five (5) feet of any utility. No trees shall be planted within ten (10) feet of any driveway. The minimum distance for any tree planting from the edge of the sidewalk or the back of the curb shall be four (4) feet. Only small trees shall be permitted to be planted under any utility line.

b) There shall be no exceptions allowed to the spacing and location requirements set forth above unless a special permit has been obtained from the tree committee and approved by the City Council.

**Subd. 6. Public Tree Care.**

a) The City shall have the right to plant, trim, prune, maintain and remove trees, plants and shrubs within the right of way of any street, alley, avenues, drives, lanes and public grounds as may be necessary to ensure the public safety or to preserve or enhance the symmetry and beauty of such public property.

b) Trees within the right of way shall be trimmed even with the sidewalk up to a height of eight (8) feet.

c) Trees within the right of way shall be trimmed so that they do not protrude out into the street up to a height of 12 feet.

d) Any individual planting a tree in a location within the public right of way without a permit or in violation of a permit issued by the Tree Committee, may be required to remove or relocate the tree at the individual's expense. If such individual fails to relocate or remove the tree within ten (10) days after mailing of notice, the City may relocate or remove such tree and the cost thereof shall be levied against the property of that individual as a special assessment and collected as in the case of other special assessments.

**Subd. 7. Private Property Tree Care.** It shall be the duty of the property owner with trees planted on private property which extend out into the right of way to prune or trim such trees in such manner that they will not obstruct street lights, passage of pedestrian traffic on sidewalks, block vision of traffic or traffic signs, or obstruct the view of any street or alley intersections. Trees on private property extending out over the sidewalk shall be trimmed up to a height of eight (8) feet. Trees on private property extending out onto the traveled portion of the street shall be trimmed to a height of 12 feet. If a property owner fails to trim trees extending out over a sidewalk or out over a traveled portion of a street or highway within ten (10) days after mailing of notice to do so, then the City may trim the trees and the cost thereof shall be levied against the property as a special assessment and collected as in the case of other special assessments.

**Subd. 8. Dead or Diseased Trees, Plants & Shrubs and Wood from Dead or Diseased Trees, Plants & Shrubs.**

a) The City Tree Inspector shall have the authority to order the trimming, treatment or removal of trees, shrubs or plants and the removal of wood from dead or diseased trees, plants & shrubs, when such action is necessary to protect public safety or to protect any utility line, or to prevent the spread of diseases, fungicide or insects from one tree, shrub, plant or wood from dead or diseased trees to other trees, shrubs or plants.

b) Any individual or land owner ordered to trim, spray, remove or provide treatment to a tree or to remove wood from a dead or diseased tree, shall do so at the land owner's cost. If the land owner fails to do so within ten (10) days after mailing of notice to do so, then the City may have the work completed. The City Tree Inspector shall keep a record of the costs of all such work and shall report the same on a regular basis to the City Administrator,

and the expenses thus incurred shall be a lien upon such real estate. The City Administrator shall certify to the County Auditor of Stearns County a statement of the amount of the costs incurred by the City. Such amount, together with interest, shall be entered as a special assessment against such property or parcel of land and be collected in the same manner as other special assessments.

**Subd. 9. Removal of Stumps.** Stumps of trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground after removal of the tree. If a property owner fails to properly remove a stump within 10 days after mailing of notice to do so, then the City may remove the stump and the cost thereof shall be levied against the property as a special assessment and collected as in the case of other special assessments.

Source: Ordinance No. 88, 2<sup>nd</sup> Series  
Effective Date: 03-30-06

## **SECTION 10.21. PERMITTED OPEN BURNING.**

### **Subd. 1. Recreational Fires.**

#### **Definitions.**

A) Recreational Fire. A recreational fire is a fire which:

- i) Started with an approved starter fuel;
- ii) Has flames no more than three (3) feet in height and is no more than three (3) feet in diameter;
- iii) Is contained within a recreational fire site, such as a fire ring, fire pit, chimneys, or outdoor fireplace;
- iv) Uses dry, clean wood producing little detectable smoke, odor or soot beyond the property line;
- v) Is supervised by an adult (a person 18 years of age or more) tending the fire at all times;
- vi) Is recreational, ceremonial, or may involve social food preparation;
- vii) Is extinguished completely before quitting the occasion; and
- viii) Respects weather conditions, neighbors, burning bans, and air quality requirements, so that no nuisance, health, or safety hazard is created.

B) Approved Starter Fuel. The fuel approved to start a recreational fire may be a small amount of paper or a commercial charcoal lighter fluid. In no event shall gasoline, diesel, oil, kerosene, or other non-approved combustibles be used. No cardboard and no large amounts of matted paper should be used for starter fuels.

## **Subd. 2. Limits and Conditions Applicable to Open Burning.**

A) No more than one recreational fire is allowed on any property at one time. The only open burning allowed shall be a recreational fire as hereinabove defined and limited by this subdivision.

B) No burning of leaves shall be permitted.

C) No recreational fires shall be permitted during an air pollution alert, warning or emergency declared by the Minnesota Pollution Control Agency.

D) No recreational fires shall take place during a fire danger alert declared by the Fire Chief of the City of Paynesville or by the Commissioner of the Minnesota Department of Natural Resources. Notice of any fire danger or alert of any air pollution alert, warning or emergency shall be broadcast on any day when recreational fires would be prohibited by these conditions.

E) No recreational fires shall be permitted on the land of another without the permission of the owner thereof or the owner's agent.

F) No recreational fires shall be permitted on any publicly owned or controlled lot or parcel of land, public bridge, street, sidewalk or other public place.

G) No recreational fires shall be permitted on any private land unless the recreational fire is at a location not less than 15 feet from any structure and adequate provisions are made to prevent the fire from spreading to within 15 feet of such structure.

H) Recreational fires shall be completely extinguished when not attended by an adult (a person 18 years of age or more) and shall not be left smoldering.

I) All recreational fires shall be limited to the burning of clean dry wood properly cut to fit within the diameter of the fire ring, pit, chimneys, or outdoor fireplace.

J) Prohibited materials to include rubber, household garbage, plastics, railroad ties, treated lumber, construction materials, tires, oil, hazardous waste, yard and lawn waste, paints, etc., shall not be burned in any recreational fire.

K) A recreational fire shall be maintained so that flames do not exceed three (3) feet in height and the fire pit or ring does not exceed three (3) feet in diameter.

L) All fires shall be attended at all times by an adult (a person of 18 years of age or more), and such person shall have a garden hose connected to a water supply or other fire extinguishing equipment readily available for use.

M) An official of the Paynesville Police Department is authorized to require burning to be immediately discontinued if smoke is offensive to occupants of surrounding properties or if burning is determined to be hazardous.

**Subd. 3. Unlawful Act.** It is a petty misdemeanor for any person to violate this

section. However, the third violation of this section and any subsequent violations within a two (2) year period shall constitute a misdemeanor.

Source: Ordinance No. 131, 2<sup>nd</sup> Series  
Effective Date: 11-18-2010

#### **SEC. 10.22. MAINTENANCE OF PRIVATE PROPERTY.**

**Subd. 1.** It is the primary responsibility of the owner of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six (6) inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; and to treat or remove infested or diseased trees thereon.

**Subd. 2.** If any owner of any lot or parcel of land fails to assume the primary responsibility described in Subdivision 1 of this Section, then notice of the failure shall be served by mail upon the property owner or his agent. If the property owner has not taken the necessary action to comply with their responsibility as the owner of property as defined in Section 10.22, Subd. 1, within five (5) days after the mailing of such notice, the City may cause the work to be done and the costs thereof shall be levied against the property as a special assessment against such lot or parcel of land and to be collected as in the case of other special assessments in the same manner as real estate taxes if the full balance of the cost is not paid within 30 days after a bill for the costs has been mailed to the property owner. The amount to be charged for the maintenance of private property shall be set by the City Council, adopted by Resolution and uniformly enforced.

Source: Ordinance No. 148, 2<sup>nd</sup> Series  
Effective Date: 01-03-2013

**SEC. 10.23. OBSTRUCTIONS TO VISIBILITY.** It is unlawful to erect or maintain any structure or vegetation within a radius of thirty-five (35) feet from the corner created by the projections of the curb lines at intersecting streets. Trees are not obstructions to vision if branches are trimmed to the trunks and to a height of eight (8) feet above the curb level or to a height of nine (9) feet above the surface of any street. Nor shall traffic control signs or signals be considered obstructions.

Source: City Code  
Effective Date: 03-15-1992

#### **SEC. 10.24. MINNESOTA UNIFORM FIRE CODE.**

**Subd. 1. Adoption.** The 1997 Edition of the Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. One copy of said Code shall be marked CITY OF PAYNESVILLE - OFFICIAL COPY and kept on file in the office of the City Administrator and open to inspection and use by the public.

Source: Ordinance No. 32, 2<sup>nd</sup> Series  
Effective Date: 05-02-2002

**Subd. 2. Storage of Flammable and Explosives Material.** No bulk plants for storage of flammable or combustible liquids, or bulk storage of liquefied petroleum gas, not

established on the effective date of this Section, shall be permitted. No storage of explosives or blasting agents shall be permitted.

Source: City Code  
Effective Date: 03-15-1992

(Sections 10.25 through 10.29, inclusive, reserved for future expansion.)

(Pages 285 through 289 reserved)

**SEC. 10.30. DANGEROUS TRESPASSES AND OTHER ACTS.** It is unlawful for any person to: (1) smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted; or, (2) interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire; or, (3) show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track, or navigable water; or, (4) place an obstruction upon a railroad track; or, (5) expose another or his property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce; or, (6) trespass or permit animals under his control to trespass upon a railroad track; or, (7) permit domestic animals or fowls under his control to go upon the lands of another within the City; or, (8) interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land; or, (9) trespass upon the premises of another, and without claim of right refuse to depart there from on demand of the lawful possessor; or, (10) occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation; or, (11) enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or, (12) without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

**SEC. 10.31. DISORDERLY CONDUCT.** It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following: (1) engage in brawling or fighting; or, (2) disturb an assembly or meeting, not unlawful in its character; or, (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or, (4) willfully and lewdly expose his person or the private parts thereof, or procure another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or, (5) whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public; or, (6) urinate or defecate in a place other than (a) if on public property then in a plumbing fixture provided for that purpose, or (b) if on the private property of another then in a plumbing fixture provided for that purpose, or (c) if on private property not owned or controlled by another, then within a building; or, (7) cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or, (8) use a sound amplifier upon streets and public

property without prior written permission from the City; or, (9) use a flash or spotlight in a manner so as to annoy or endanger others; or, (10) cause defacement, destruction, or otherwise damage to any premises or any property located thereon; or, (11) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or, (12) enter any motor vehicle of another without the consent of the owner or operator; or, (13) fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

## **SEC. 10.32. DISORDERLY CONDUCT - NOISY PARTIES.**

**Subd. 1. General Prohibition.** It is unlawful to engage in acts or activities which are defined to be loud, disturbing and unnecessary noises in violation of this Section. The following enumeration of acts deemed and declared to be loud, disturbing and unnecessary noises in violation of this Section is intended to constitute a listing of examples of such loud, disturbing and unnecessary noises, which listing shall not be deemed to be exclusive.

**A. Radios, Phonographs, Etc.** The using, operating or permitting to be played any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet or comfort of the persons residing in the neighborhood at any time with louder volume than is reasonably necessary for the convenient hearing of the person or persons who are in the room, vehicle or chamber in which such machine or device is being operated. The operation of such set, instrument, phonograph machine or device between the hours of 11:00 P.M. and 7:00 A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

**B. Loudspeakers, Amplifiers for Advertising.** The using, operating or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

**C. Yelling, Shouting, Etc.** Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any person in the vicinity.

**D. Animals, Birds, Etc.** The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

**E. Whistles or Sirens.** The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles.

**F. Excessive Vehicle Noise.** Excessive vehicle noise is prohibited.

**Subd. 1. Definitions.** The following terms, as used in this section shall have the meaning stated:

a) “Engine Retarding Brake” means a Dynamic Brake, Jake Brake, Jacobs Brake, C-Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

b) “Abnormal or Excessive Noise” means (1) distinct and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property’s value; (2) noise in excess of that permitted by Minnesota Statute §169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or (3) noise in excess of that permitted by Minnesota Statute §169.693 and Minnesota Rules Parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

**Subd. 2. Mufflers/Exhaust Discharge.** It is unlawful for any person to discharge the exhaust or permit the discharge of the exhaust of any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

**Subd. 3. Engine Retarding Brake.** It is unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City which causes abnormal or excessive noise except in an emergency.

**Subd. 4. Noise Limits.** It is unlawful for any operator of a motor vehicle to operate a vehicle which emits noise in excess of the limits set by Minnesota Statute §169.69 – 169.693 and Minnesota Rules Parts 7030.1000 through 7030.1050 as those statutes and rules may be amended from time to time.

**Subd. 5. Sign Postings.** Signs stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the Council to advise motorists of the prohibitions contained in these sections and signs prohibiting jake braking may be installed at locations deemed appropriate by the City Council, except that no signs shall be installed on state highways without the permission of the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no such signage is installed.

**Subd. 6. Future Amendments to State Statute or Rule.** It is the intention of the City Council in adopting this ordinance that all future amendments to state statutes and rules referenced or adopted by reference in this section are also adopted by reference as if they had been in existence at the time this section of the City Code was adopted.

Source: Ordinance No. 84, 2<sup>nd</sup> Series

Effective Date: 08-18-2005

**G. Defect in Vehicle or Load.** The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating,

grinding, rattling or other noise which shall disturb the comfort or repose of any persons in the vicinity.

**H. Sound Trucks for Advertising Purposes.** The use of sound trucks or any other vehicle equipped with sound amplifying devices for the purposes of advertising any program, project or meeting of any public agency, private business, religious organization, civic group, political party or charitable organization.

**I. Loading, Unloading, Opening Boxes.** The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

**J. Construction or Repairing of Buildings.** The erection (including excavating), demolition, alteration or repair of any building between the hours of 9:00 P.M. and 6:00 A.M. on weekdays and all day Sunday except where single individuals or families work on single family residences for their own occupancy owned by them, except that the Building Inspector may, in cases of emergency, grant permission to repair at any time when he finds that such repair work will not affect the health and safety of the persons in the vicinity.

**K. Schools, Courts, Churches, Hospitals.** The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court or hospital while the same are in use which unreasonably interferes with the use thereof, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

**L. Hawkers, Peddlers.** The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

**M. Pile Drivers, Hammers, Etc.** The operation between the hours of 9:00 P.M. and 6:00 A.M. of any pile driver, power shovel, pneumatic hammer, derrick, power or electric hoist or other appliance the use of which is attended by loud or unusual noise.

**N. Blowers.** The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of erating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

## **Subd. 2. Noisy Parties and Gatherings.**

**A. Prohibition.** It is unlawful for any person to, between the hours of 10:00 P.M. and 7:00 A.M., congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of another person. It is also unlawful for any person to knowingly remain at such a noisy party or gathering.

**B. Evidence.** Noise of such volume as to be clearly audible at a distance of fifty (50) feet from the structure or building in which the party or gathering is occurring, or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of a violation of this Section.

**C. Duty to Disperse.** When a police officer determines that a party or gathering is in violation of this Section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person shall knowingly remain at such a party or gathering.

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

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

2. Church bells, chimes, or AMPI whistle/horn.

3. Persons who have gone to the party for the sole purpose of abating the violation.

**E. Exemptions Authorized by the Council.** Upon special request made by contractors, the Council may exempt contractors performing public works operations from time prohibitions set forth in this Section.

### **SEC. 10.33. CURFEW.**

**Subd. 1. Definition.** As used in this Section "minor" means a person under the age of eighteen (18) years.

#### **Subd. 2. Unlawful Acts.**

**A.** It is unlawful for any minor person to be or loiter upon the streets or public places between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. of the day following.

**B.** It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor to allow or permit such minor person to be or loiter upon the streets or public places in violation of this Section unless such minor is accompanied by a parent or guardian.

**C.** 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 to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of lawful age having such minor in charge. This Subparagraph shall not be construed to permit the presence, at any time, of any person under age in any place where his presence is otherwise prohibited by law.

**Subd. 3. Exceptions.** Such curfew shall not apply to any minor student who is lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events.

### **SEC. 10.34. AMUSEMENT DEVICES.**

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

meanings stated:

1. **"Game of skill"** any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for such privilege.

2. **"Coin amusement"** any machine which upon the insertion of a coin, token or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

3. **"Video game"** any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.

4. **"Amusement device"** includes a game of skill, a coin amusement, or a video game, as defined in this Subdivision, or any combination thereof.

5. **"Distributor"** the person who places amusement devices on premises not owned by him or under his control, which devices may be played by the public generally for a price paid either directly or indirectly.

6. **"Arcade"** a contiguous area in which more than six (6) amusement devices are kept for use by the public generally.

**Subd. 2. Unlawful Use and Devices.** It is unlawful for any person to: (1) sell or maintain a machine or device which is for gambling or contains an automatic pay-off device; (2) give any prize, award, merchandise, gift, or thing of value to any person on account of operation of such device; (3) sell or maintain, or permit to be operated in his place of business, any amusement device equipped with an automatic pay-off device; (4) equip any amusement device with an automatic pay-off device; (5) permit persons under the age of eighteen (18) years to play or operate any game of skill; or, (6) permit the playing of coin amusement machines between the hours of 1:00 o'clock A.M. and 6:00 o'clock A.M. of any day.

Source: City Code

Effective Date: 03-15-1992

## **SECTION 10.35. SMALL UN-MANNED AIRCRAFT.**

**Subd. 1. Purpose.** The City of Paynesville is the home of a municipal airport and a hospital helipad. The protection of the public's health and safety by the protection of the hospital and airport are important issues in the City of Paynesville. The City of Paynesville recognizes that the Federal Aviation Administration regulates small un-manned aircraft and the City wishes to adopt regulations consistent with those of the Federal Aviation Administration so as to authorize local law enforcement to enforce rules and to protect the public health and safety in regards to the operation of small un-manned aircraft. The City of Paynesville recognizes that the use of small un-manned aircraft is an increasingly popular recreational activity and that there will continue to be technological innovations in their use and wishes to have regulations in place which will allow people to make themselves familiar with the rules and to facilitate the use of

technology and innovation in a safe and responsible manner.

**Subd. 2. Definitions.** (i) “Aircraft” means any contrivance invented, used or designed to navigate or fly in the air.

(ii) “City Air Space” means the air space above the land, water and waterways within the jurisdiction of the City of Paynesville.

(iii) “Firearm” has the meaning ascribed to in in Minnesota Statute §97A.015, Subd. 19, or its successor provision.

(iv) “Hobby or Recreational Purposes” means a pursuit engaged in for relaxation and not for business purposes and not for compensation or hire.

(v) “Open Air Assembly Unit” means any structure, enclosed area or other demarcated space used for the assembly of persons in the open air, including, but not limited to, amusement parks, stadiums, athletic fields, automotive speedways, aviation fields, bandstands, beach enclosures, grandstands, observation platforms, outdoor swimming pools, outdoor theatres, racetracks, reviewing stands, street festivals or parade routes.

(vi) “Operate” means to pilot, steer, direct, fly or manage a small un-manned aircraft through the air whether within the aircraft or remotely. The term “operate” includes managing or initiating a computer system that pilots, steers, directs, flies or manages a small un-manned aircraft.

(vii) “Public Aircraft” has the meaning ascribed to the term at Section 40102 of Title 49 of the United States Code.

(viii) “Small Un-Manned Aircraft” means an aircraft that (i) is operated without the possibility of direct human intervention from within or on the aircraft, and (ii) weighs less than 55 pounds at the time of operation, including the weight of any pay load or fuel. The term “small un-manned aircraft” does not include “toy aircraft” or “public aircraft” as defined herein.

(ix) “Surveillance” means the gathering, without permission and in a manner that is offensive to a reasonable person, of visual images, physical impressions, sound recordings, data or other information, involving the private, personal, business or familial activities of another person, business or entity, or that otherwise intrudes upon the privacy, solitude or seclusion of other persons, business or entity, regardless of whether a physical trespass onto real property owned, leased or otherwise lawfully occupied by the other person, business or other entity, or into the airspace above real property owned, leased or otherwise lawfully occupied by such person, business or other entity, occurs in connection with such surveillance.

(x) “Toy Aircraft” means (i) a glider or hand tossed small un-manned aircraft that is not designed for and is incapable of sustained flight; or (ii) a small un-manned aircraft that is capable of sustained flight and is controlled by means of a physical attachment such as a string or wire.

(xi) “Weapon” means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily

capable of causing death or serious physical injury.

**Subd. 3. Operating Regulations & Unlawful Conduct.** Except as otherwise provided in this section and in Subdivision 4 below, no person shall operate any small un-manned aircraft in City air space and it is unlawful to do so:

(i) except for hobby or recreational purposes and only in conformity with this section, unless small un-manned aircraft is a civil aircraft as defined in 49 USC Section 40102(a)(16) and is authorized by the FAA;

(ii) without the small un-manned aircraft being properly marked with identification numbers showing FAA registration;

(iii) directly over any person who is not involved in the operation of the small un-manned aircraft without such person's consent;

(iv) over property that the owner does not own without the owner's consent, and subject to any restrictions that the property owner may place on such operation;

(v) at an altitude higher than 400 feet above ground level;

(vi) outside of the visual line of sight of the operator. The operator shall use his or her own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to maintain at all times an unobstructed view of the small un-manned aircraft, without the use of vision enhancing devices such as binoculars, night vision goggles, power vision magnifying devices, goggles designed to provide "first person view" from the model or similar devices;

(vii) within five (5) miles of any airport unless the operator provides the airport operator and the airport air traffic control tower with prior notice of the operation;

(viii) in a manner that interferes with, or fails to give way to, any manned aircraft;

(ix) between dusk and dawn;

(x) whenever weather conditions impair the operator's ability to operate the small un-manned aircraft safely;

(xi) over any open air assembly unit, school, school yard, hospital, places of worship or police station, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation;

(xii) in a manner that is careless or reckless;

(xiii) for purposes of conducting surveillance unless expressly permitted by law;

(xiv) while under the influence of alcohol or other drug or drugs, intoxicating compounds or compounds, or any combination thereof;

(xv) that is equipped with firearm or other weapon;

(xvi) with intent to use such small un-manned aircraft or anything attached to it to cause harm to persons or property; and

(xvii) in violation of federal or state law.

#### **Subd. 4. Construction & Limitations.**

**i) Operations Authorized by the FAA.** Notwithstanding any prohibition set forth in this section, nothing in this section shall be construed to prohibit, limit or otherwise restrict any person who is authorized by the Federal Aviation Administration to operate a small un-manned aircraft in City airspace, pursuant to Section 333 of the FAA Modernization & Reform Act of 2012 or a certificate of waiver, certificate of authorization, or air worthiness certificate under Section 44704 of Title 49 of the United States Code or other Federal Aviation Administration grant of authority for specific flight operations, from conducting such operations in accordance with the general authority of the Federal Aviation Administration.

**ii) Operations Prohibited by FAA.** Nothing in this section shall be construed to authorize the operation of any small un-manned aircraft and City airspace in violation of any federal statute or rules promulgated thereunder, including but not limited to, any temporary flight restrictions or notices to airmen issued by the Federal Aviation Administration.

**iii) Operations Authorized by State of Minnesota Exception.** Notwithstanding any prohibition set forth in this section, nothing in this section shall be construed to prohibit the use of a small un-manned aircraft by law enforcement in accordance with laws adopted by the State of Minnesota.

Source: Ordinance No. 153, 2<sup>nd</sup> Series  
Effective Date: 04-07-16

(Sections 10.36 through 10.39, inclusive, reserved for future expansion.)

(Pages 295 through 299 reserved)

### **SEC. 10.40. RULES AND REGULATIONS GOVERNING PUBLIC PARKS.**

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

**Subd. 2. Hours.** It is unlawful for any person to park, be in or remain in, or leave any vehicle in any park between one-half hour after sunset and 6:00 a.m. of the day following; provided, however, that this section shall not apply to those vehicles or persons involved in organized activities which are authorized by a permit issued by the City to remain in a park.

Source: Ordinance No. 129, 2<sup>nd</sup> Series  
Effective Date: 11-04-10

## **SEC. 10.41. OBSTRUCTIONS ON PUBLIC PROPERTY.**

**Subd. 1. Obstructions.** A) Except as provided in (B) hereof, it is unlawful for any person to place, deposit, display or offer for sale, any goods or to fence or otherwise place any obstruction upon, over, across or under any public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. Any electrical cord or device of any kind is specifically included within the definition of an obstruction. Where an obstruction is permitted on a public sidewalk, that obstruction shall be placed and located so as to leave a straight path on the sidewalk at least 42” wide, not including the curb top, for pedestrian traffic to pass.

B) In the area bounded by the following named streets or portions thereof as follows:

- Lake Avenue between Hoffman and Railroad Streets;
- Railroad Street between Lake Avenue and River Street;
- River Street between Railroad Street and James Street;
- James Street between River Street and Lake Avenue;
- Stearns Avenue between James Street and Hoffman Street;
- Augusta Avenue between Railroad Street and Mill Street;
- Washburne Avenue between Railroad Street and Hoffman Street;

it is unlawful for any person to place, deposit, display or offer for sale, any goods or to fence or otherwise place any obstruction upon, over, across or under any public property without first having obtained written permission from the City Administrator, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. Any electrical cord or device of any kind is specifically included within the definition of an obstruction. Where an obstruction is permitted on a public sidewalk, that obstruction shall be placed and located so as to leave a straight path on the sidewalk at least 42” wide, not including the curb top, for pedestrian traffic to pass.

Source: Ordinance No. 72, 2<sup>nd</sup> Series  
Effective Date: 09-02-2004

**Subd. 2. Fires.** It is unlawful for any person to build or maintain a fire upon public property except in the grills provided by the park or acceptable aboveground or off-ground grills.

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

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

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

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

**Subd. 7. Condition.** Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

## **SEC. 10.42 HAZARDOUS CONDITIONS.**

**Subd. 1. Policy & Purpose.** The City has determined that the outdoor accumulation of certain items within the City limits of the City of Paynesville is a source of filth, cause of sickness, and an immediate danger to the health, safety, and welfare of persons and property in the City. The City finds that if such unauthorized, unwholesome, and dangerous accumulations and the failure to maintain reasonable standards of cleanliness are permitted to continue to pose such a threat, that it is a nuisance. This section is adopted to protect the residents of the City and their property and property values, and to allow such accumulations to be addressed as either criminal violations, or as a civil matter for which abatement may be sought, or both, as circumstances may require.

**Subd. 2. Definition.** “Accumulation” as used herein means the prohibited item in any number or amount.

**Subd. 3. Unlawful Public Nuisances.** A) Private Property Within Any Residential Zoning District. On private property zoned residential it shall be unlawful and a public nuisance to cause or permit any of the following except in a lawfully operated junkyard, in a container permitted and the contents regularly disposed of, or within a fully enclosed and lawfully erected building:

i) Any accumulation of unlicensed, unregistered, or inoperable motor vehicles.

ii) Any accumulation of inoperable machinery, mechanical equipment, agricultural implements, motorized vehicles, bicycles, boats, and outboard motors or components thereof.

iii) Any accumulation of household furniture, furnishings or appliances or parts or components thereof.

iv) Any accumulation of household waste, metal, lumber, glass, paper, rubber, concrete, yard waste, or other material, whether organic or inorganic, resulting from building construction, renovation, remodeling, demolition, or otherwise accumulated.

v) Any accumulated felled tree or brush materials, including

wood, branches, and leaves, except as immediately processed into lumber, wood for fuel, or other such ultimate use and neatly stacked or stored.

B) Private Property Within Any Agricultural Commercial or Industrial Zoning District. On private property zoned agricultural, commercial or industrial, it shall be unlawful and a public nuisance to cause or permit any of the following except in a lawfully operated junkyard, in a container permitted and the contents regularly disposed of, or within a fully enclosed and lawfully erected building which is not open to the public:

i) Any accumulation of unlicensed, unregistered, or inoperable motor vehicles.

ii) Any accumulation of inoperable machinery, mechanical equipment, agricultural implements, motorized vehicles, bicycles, boats, and outboard motors or components thereof, except on the premises of a business which is lawfully operated and engaged in the sale of the type of machinery, implement, appliance or component parts thereof found on the premises.

iii) Any accumulation of household furniture, furnishings or appliances or parts or components thereof, except on the premises of a business which is lawfully operated and engaged in the sale of the type of machinery, implement, appliances or component parts thereof found on the premises.

**Subd. 4. Unlawful Acts & Enforcement.** As to any provision of this section which constitutes an unlawful act, in addition to all civil proceedings described in the following provisions of this section, such act shall constitute a violation under the provisions of Section 10.99, and each day that the violation continues, or is permitted to continue, shall constitute a separate offense in prosecution of such unlawful act.

**Subd. 5. Civil Abatement.** a) Investigation & Notice of Hearing. Upon receipt of a complaint of violation of Subdivision 2 of this Section, or on their own initiative the Council may, from time to time, order an investigation of premises located within the City limits of the City of Paynesville, and if it is found that there is a hazardous condition and/or a nuisance on any premises in violation of this Section, the same shall be reported to the City Administrator who shall prepare a Notice of Hearing on Order to Abate Nuisance addressed to the owners, tenants, mortgagees and other lien holders, all of whose interests are known to the City Administrator or appear of record, and bearing the legal description of the premises on which the alleged violation appears. The notice shall state the date, time and place of hearing and describe the violation in general terms.

Source: Ordinance No. 156, 2<sup>nd</sup> Series  
Effective Date: 06-22-2016

B) Service of Notice. The Notice shall be served at least 20 days before the date of hearing in the following manner: (1) if the person to whom it is addressed resides in the City, or can readily be found therein, it shall be served personally on the addressee or left at his residence with a person of suitable age and discretion; (2) addressees not served personally shall be served by certified mail at their addresses appearing in records of Stearns County; and (3) by publication of the Notice once in the official newspaper at least ten (10) days prior to the date of hearing. Inadvertent failure to serve any addressee personally or by certified mail shall

not invalidate the proceedings, but publication shall then suffice.

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

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

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

D) City to Abate. If abatement of the items described in Subdivision 3 is not completed by the date stated in the Order to Abate Nuisance, the City or a contractor hired by the City may enter upon the premises, remove the offending item or items, and clean up the nuisance.

E) City Disposal. If the City abates the nuisance it shall dispose of the items as follows:

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

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

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

G) Failure to Abate Nuisance on Business Premises. If the hazardous condition and nuisance described in Subdivision 3 of this Section is not abated within the time limited, all present licenses issued by the City to carry on the business on such premises shall be revoked, and no future license shall be issued therefore until full abatement has been completed.

**Section 2.** City Code, Chapter 1, entitled "General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation" and Section 10.99 entitled "Violation a Misdemeanor or Petty Misdemeanor" are hereby adopted in their entirety by reference as though repeated verbatim herein.

Effective Date: 04-03-2008

**SEC. 10.43. ABANDONING A MOTOR VEHICLE.** It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169.

**SEC. 10.44. BARBED WIRE FENCES.** It is unlawful for any person to erect or maintain a barbed wire fence upon his property, which fence is less than six (6) feet above the ground and within three (3) feet of a sidewalk or public right-of-way except in those areas zoned Agricultural.

Source: City Code  
Effective Date: 03-15-1992

(Sections 10.45 through 10.98, inclusive, reserved for future expansion.)

(Pages 304 through 307 reserved)

**SEC. 10.99. VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code  
Effective Date: 03-15-1992