TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMAL CONTROL

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CHAPTER 90: ANIMAL CONTROL

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GENERAL PROVISIONS

§ 90.01 PURPOSE.

The purpose of this chapter is to describe the conditions and requirements allowing citizens to keep animals within the city.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.02 DEFINITIONS.

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

ABANDONMENT. Giving up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party.

ANIMAL. Any live creature, both domestic and wild, including mammals (except humans), birds, reptiles, amphibians or fish.

ANIMAL CONTROL OFFICER. An individual, approved by the governing body, with police authority, whose duty it is to apprehend animals within the jurisdiction of this chapter whose owner are in violation of this chapter. The County Sheriff's Department staff shall also act as ***ANIMAL CONTROL OFFICERS***.

ANIMAL SHELTER. A building and facilities therein which is approved by the governing board for the impounding of animals.

ANTI-ESCAPE. Any housing, fencing or device which a guard dog cannot go over, under, through or around.

AT LARGE.

(1) An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant or a member of its immediate family by a leash.

(2) An animal when on the premises of the owner, possessor, keeper, agent or servant if not attended by a competent person unless that animal is chained, restrained, enclosed or confined in a manner preventing it from leaving the premises.

CONTRACTED AGENT. The person, organization, governmental agency or corporation with whom the municipality and/or county contracts to perform animal control functions.

DANGEROUS ANIMAL. Any animal that, by itself or by environmental circumstances, at the determination of any agent or officer of a humane society, or any peace officer after investigation, is a threat to the physical well-being of other owned animals or humans.
(SDCL § 40-1-1(5))

DISTURBANCE. The act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.

DOMESTIC ANIMAL. Any animal that, through long association with humans, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind.

EXPOSED TO RABIES. An animal has been ***EXPOSED TO RABIES*** if it has been bitten by, or been exposed to, any animal known to be or suspected of being infected with rabies.

FERAL ANIMALS. Any livestock or pets not effectively controlled by any person and exhibiting predatory, scavenger or vicious tendencies.

GUARD DOG. Any dog that is utilized to protect commercial property, or is housed unattended on commercial property at any time other than normal business hours; except that, such definition shall not apply to pet stores, boarding kennels, veterinary offices and animal shelters.

HANDLER. A person who is responsible for or capable of controlling the operations of a guard dog.

HUMANE SOCIETY INVESTIGATOR. An individual, approved by the governing body, with law enforcement authority, whose duty it is to apprehend animals within the jurisdiction of this chapter, whose owners are in violation of this chapter.

IMPOUNDMENT. Taking physical control and custody of an animal by any law enforcement officer, Animal Control Officer or any authorized representative.

INHUMANE TREATMENT. Any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation or inhumane slaughter of an animal that is not consistent with generally accepted training, use and husbandry procedures for the species, breed, physical condition and type of animal.
(SDCL § 40-1-2.4)

KENNEL. Any lot or premises or portion thereof where four or more dogs, cats, rabbits or other household/domesticated animals, six months of age or older, are maintained, boarded, bred or cared for, in return for any compensation, or are kept for the purpose of sale.

MISTREATMENT, TORTURE OR CRUELTY OF ANIMALS. Any act or omission whereby unnecessary, unjustifiable or unreasonable physical pain or suffering is caused, permitted or allowed to continue including acts of mutilation.
(SDCL § 40-1-2(9))

NEGLECT. The failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities or care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition and type of animal.
(SDCL § 40-1-2(10))

NEUTERED DOG/CAT. Any male dog/cat which has undergone surgery to prevent reproduction, whose owner can provide proof of surgery.

NUISANCE. The act of destroying or defacing property or causing injury to persons or domestic animals.

OWNER. Any person harboring or keeping an animal and who is the head of the household of the residence of the owner or manager in charge of the establishment or premises at which an animal remains or returns to. An animal shall be deemed harbored if it is fed or sheltered for 20 consecutive days.
(SDCL § 40-12-4)

PET. Any dog, cat or other species of carnivore kept for domestication or display. Note: guide dogs are not considered ***PETS***.
(SDCL § 40-12-4)

PROPER ENCLOSURE. A secure confinement, as determined by the board, any agent or officer of a humane society, or any peace officer, indoors or in a securely enclosed or locked facility, suitable to prevent a dangerous animal from escaping and to prevent any physical threat to the well-being of any other animal or human, while not constituting inhumane treatment.
(SDCL § 40-1-1-(11))

RESTRAINT. A leash or chain, not longer than six feet in length, held by a competent person, or enclosing an animal within a vehicle being driven or parked on the streets, or keeping the animal within the property limits of its owner or keeper.

SERVICE ANIMAL. Any dog owned by any state, county or municipal police department or any state of federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for law enforcement purposes, or any properly trained dog certified by a licensed seeing-eye or hearing-ear dog agency and actually being used by a visually or hearing impaired person.

SPAYED DOG/CAT. Any female dog/cat which has undergone surgery to prevent conception, whose owners can provide suitable proof of such surgery.

WILD ANIMAL. Any animal(s) other than domestic dogs and cats, which in a wild state are carnivorous or which, because of their nature or physical make up, are capable of inflicting serious physical harm or death to human beings, including but not limited to: animal(s) which belong to the cat family, snakes which are poisonous or otherwise present a risk of serious physical harm of death to human beings as a result of their nature or physical makeup, and all raccoons, skunks, foxes, bears, coyotes, wolverines, badgers, lions and tigers.

VICIOUS ANIMAL. Any animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack or bites, inflicts injury, assaults or otherwise attacks a person or other animal whether on public or private property; provided that, the animal has not been provoked to do so by teasing, tormenting, abusing or assaulting the animal.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.03 LICENSING REQUIREMENTS.

(A) Any owner of a dog or cat shall make application at the city's Finance Office for the appropriate dog or cat license/tag.

(B) The fee is $10 for each unspayed or unneutered cat/dog and $5 for each spayed or neutered cat/dog, payable annually by December 31 for the following year's licensure.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.04 RABID ANIMALS.

Any time the Animal Control Officer, any law enforcement officer or the state's Animal Industry Board suspects an animal within the city is infected with rabies, the local law enforcement or Animal Control Officer may require it to be impounded for observation as hereinafter provided.

(A) *Report of suspected cases.* Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the Animal Control Officer, or the local law enforcement, describing the animal and giving the name and address of the owner, if known.

(B) *Impoundment for observation.*

(1) (a) When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must, within 24 hours, place the animal under the care and observation of the Animal Control Officer, local law enforcement or a licensed veterinarian. The period of observation shall be a period of not less than ten days, except in those cases when an animal has bitten or attacked while

on the premises of the owner and the owner has a current rabies vaccination for the animal. The Animal Control Officer, or any law enforcement officer, may, if he or she feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises.

(b) In this case, the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten.

(c) The quarantined animal must at all times be available for inspection during the quarantine.

(2) At the end of the ten-day observation period, the animal shall be examined by a licensed veterinarian and, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.

(3) Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have been exposed to rabies shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

(4) Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

(C) *Destruction of rabid animals.*

(1) Any animal reasonably believed to have rabies and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer or the Animal Control Officer may destroy the animal.

(2) The owner shall pay any expense incident thereof.

(3) Neither the city, nor any person authorized by this section, shall be liable for the destruction of any animal when done under circumstances as set forth in this section.
(Ord. 2019-3-3, passed 4-1-2019)
Statutory reference:
SDCL §§ 7-12-29, 40-12-0 through 40-12-6

§ 90.05 AUTHORITY; ENFORCEMENT; IMPOUNDMENT.

(A) *Authority.* The Animal Control Officer, any law enforcement officer or other persons of proper authority is hereby authorized and empowered to enforce all provisions of this chapter.

(B) *Interference prohibited.* No person shall hinder, delay or obstruct any person in his or her ability to enforce the provisions of this chapter.

(C) *Allowable enforcement activities*. Any person authorized to enforce the provisions of this chapter shall, having reasonable basis to believe a violation of this chapter has occurred, have the power to:

(1) Lawfully enter the premises where the animal(s) is (are) kept;

(2) Examine such animal; and

(3) Take possession and impound such animal(s), when, in the officer's opinion, a violation has occurred. Any animal impounded under this section shall be dealt with as provided herein.

(D) *Impounded animals*. Any impounded animal shall not be released by the Animal Control Officer or local law enforcement to any person until such animal has been immunized against rabies; provided, no animal so impounded shall be immunized if the owner can present a certificate of current immunization having been previously performed.

(1) *Notice to owner*. The owner of any animal impounded under the provisions of this chapter, if his or her identity and location can be obtained by reasonable means, shall be notified within 24 hours that his or her animal has been impounded.

(2) *Costs*.

(a) Before any person may redeem any animal impounded under the provision of this chapter, he or she shall pay to the city's Finance Officer an impoundment fee of $20, plus $8 per day or other actual costs incurred by the city, for feeding and caring of such animal. The person redeeming such impounded animal under the provisions of this chapter shall receive a dated receipt signed by the city's Finance Officer. The receipt for payment of impoundment and boarding costs must be presented to the person, association or corporation housing the impounded animal before such animal may be redeemed.

(b) The owner of any impounded animal that has not been vaccinated or licensed under this chapter, upon satisfactory proof of ownership, may redeem the animal by payment of the fees determined above. In addition, by making a deposit of $25, the owner shall be allowed 48 hours to get such animal vaccinated and properly licensed. If the owner fails to produce a certificate of vaccination and city license within 48 hours, the deposit shall be forfeited and turned over to the city's Finance Officer to be placed in the General Fund and the animal may be impounded again. Upon representation within 48 hours of a license issued under § 90.04(B) of this chapter, the deposit shall be refunded.

(c) If the owner of any impounded animal shall fail to redeem the animal within 72 hours, excluding Sundays and holidays, unclaimed animals will become the property of the contracted animal control organization. Unclaimed animals may be put up for adoption or disposed of at the discretion of that organization.
(Ord. 2019-3-3, passed 4-1-2019)

CONDITIONS AND REGULATIONS

§ 90.20 TYPES OF ALLOWABLE ANIMALS.

No person shall keep, maintain, harbor or have in custody or under control any animal within the city, except as otherwise provided in this chapter.

(A) Allowable small animals/pets include those that can be bought from a commercial pet store in the state, except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snakes, prairie dogs, poisonous insects, hybrids, member of the file species other than domestic cat (felis domesticus), member of the canine species other than domestic dog (canis familiaris) or any other animal that would require a standard of care and control greater than that required for customary household pets; are allowable animals authorized by this chapter and can be kept in the city. A license is required for dogs and cats.

(B) No large domesticated livestock or domesticated fowl of any kind including, but not limited to, horses, cows, goats, swine, sheep, ducks, geese, pigeons, turkeys, guineas and the like are allowed to be kept within in the city limits, except at the fairgrounds during special events or with special permission of the county, city or school personnel.

(C) No more than six hen chickens are allowed to be kept within the city limits unless a special license/permission has been granted by the City Council. No roosters are allowed.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99
Statutory reference:
Dealers in poultry, eggs and dairy products, see SDCL § 40-33-3
Eggs and egg products, see SDCL § 39-11-2

§ 90.21 NUMBER OF ANIMALS.

It is unlawful for any person to own or keep in his or her care on any premises more than six animals, of which no more than three can be dogs and three can be cats, over the age of six months (except fish) unless a special license/permission has been granted by the City Council.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.22 RUNNING AT LARGE PROHIBITED.

(A) No owner of any animal shall permit such animal to be at large.

(B) Any owner whose animal is not confined by a leash or enclosed is declared to be running at large and is declared to be a public nuisance. Such violation will be considered a city misdemeanor. The

local law enforcement agency or a designated Animal Control Officer is authorized to catch any animal running at large or causing a nuisance.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.23 ANIMALS DISTURBING THE PEACE; NUISANCES.

(A) No person owning any dog or other animal confined on the premises or otherwise shall permit such animal to disturb the peace and quiet of the neighborhood by making loud and/or unusual noises.

(B) (1) As determined by local law enforcement, or upon a signed complaint with the designated Animal Control Officer or the County Sheriff's Department, that any person is keeping or harboring any animal which disturbs the peace, it shall be the duty of the local law enforcement agency or a designated Animal Control Officer to notify the owner of such animal in writing of such complaint and, after such owner has been given 48 hours' notice of such habit, any law enforcement officer or person of proper authority is authorized to impound any such dog or animal so disturbing the peace.

(2) In addition to the impounding fees, each violation shall be considered a city misdemeanor.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.24 CRUELTY PROHIBITED.

No person shall cruelly torture, beat or injure any domestic animal, nor shall any person willfully or intentionally abuse or neglect in a cruel or inhuman manner any such animal.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.25 DEFECATION, EXCREMENT REMOVAL.

(A) No owner of any animal shall allow such animal to defecate on public or private property other than his or her own property.

(B) If an animal does defecate on public or private property, the owner shall immediately clean the fecal matter from such property.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.26 ABANDONMENT PROHIBITED.

It is unlawful for any person to abandon an animal in the city.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.27 RABID ANIMALS.

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.28 TRANSMISSION OF DISEASE.

No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet or insect under his or her control in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to humans.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.29 POISON.

Unless recommended by a veterinarian, it shall be unlawful for any person to:

(A) Willfully administer or cause to be administered, poison of any sort whatsoever to any animal, that is the property of another with the intent to injure or destroy such animal; or

(B) Willfully place any poison or poisoned food where the same is accessible to any such animal.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.30 HUNTING, TRAPPING AND DESTRUCTION.

No person shall hunt, trap or otherwise injure or destroy any animal within the city. This provision shall not apply to licensed veterinarians, law enforcement officers or Animal Control Officers.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

VICIOUS ANIMALS

§ 90.45 OWNERSHIP.

(A) Any person owning or keeping a vicious dog, as defined in SDCL §§ 40-34-13 through 40-34-14 or any corresponding state law, or any person owning or keeping a vicious animal has committed a public nuisance and is subject to the provisions of SDCL §§ 21-10-4, 21-10-9 or corresponding state law.

(B) No person shall permit feral animals, or vicious animals of any type, to remain upon property owned or occupied by any person within the city. Such animals must be promptly reported to local law enforcement or Animal Control Officer and the city's Finance Office. The sole exceptions to this prohibition is a guard dog that is professionally trained and fully controlled by voice command, or a dog that is enclosed within a pen or proper enclosure so that it is inaccessible to children or other pets. Any excepted animal shall be licensed and registered with the city and the exception will be made of record on the certificate of registration.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.46 WHO MAY DECLARE.

The Mayor, Animal Control Officer, a law enforcement officer or an attending physician of any victim of an animal bite or scratch may declare an animal vicious.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.47 WILLFUL TRESPASS OR OTHER TORT.

No animal may be declared vicious if the injury or damage is sustained to any person or animal that is committing a willful trespass or other tort or criminal act upon premises occupied by the owner or keeper of the animal.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.48 NOTIFICATION.

When an animal is declared to be vicious as provided for above, the city's acting law enforcement agency shall notify the owner or keeper of said animal of said declaration in writing that such animal is vicious. Such notice shall be served either in person or by certified mailed within 48 hours of such declaration.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.49 COMPLIANCE REQUIRED.

The owner or keeper of an animal that has been declared vicious then must comply with the following.

(A) If the animal is kept indoors, the animal shall be under the control of a person over 18 years of age.

(B) If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet and under the control of a person over 18 years of age.

(C) If the animal is outdoors and unattended, the animal must be locked in an escape proof pen or proper enclosure approved by local law enforcement or Animal Control Officer.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.50 ANIMALS OFF PREMISES MAY BE SEIZED.

(A) Any vicious animal found off the premises of its owner or caretaker, other than as provided for in this chapter, shall be seized by the Animal Control Officer or any law enforcement officer and impounded.

(B) If the animal cannot be captured, it may be destroyed.

(C) If the animal has been running at large, or bites a person, or bites another animal, the Animal Control Officer or any law enforcement officer may order the owner to deliver the animal to the animal shelter within 24 hours.

(D) The owner shall be ordered to appear to show just cause why this animal shall not be destroyed.

(E) If the owner of the animal fails to deliver the animal as ordered, the Animal Control Officer or any law enforcement officer shall use such means as is necessary to impound the animal.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.51 KENNEL STANDARDS.

Minimum standards shall include the following.

(A) Fencing materials shall not have openings with a diameter of more than two inches and, in the case of a wooden fence, the gaps shall not be more than two inches.

(B) Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.

(C) The required pen or structure shall have a top and bottom with both secured to the sides.

(D) The pen or structure shall protect the animal from the elements.

(E) The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects within reach of the animal.

(F) A sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.52 INSURANCE.

The owner shall carry a minimum of $100,000 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with local law enforcement and the city's Finance Office.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.53 LICENSING REQUIREMENTS.

The owner shall comply with the licensing requirements of the city ordinances as required in § 90.04(B) of this chapter and present proof of a current rabies vaccination.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.54 CITY MAY IMPOUND.

The city, local law enforcement or Animal Control Officer, at the owner or keeper's expense, may impound the vicious animal until such time as all provisions outlined above are complied with.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.55 EUTHANIZATION.

If the conditions outlined above are not complied with, the owner shall euthanize the animal in a humane manner. Proof of euthanasia shall be filed with the city office.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.56 PROSECUTION.

The owner may be subject to prosecution for failure to comply. Animals impounded under this subchapter shall be dealt with as provided herein.
(Ord. 2019-3-3, passed 4-1-2019)

CHAPTER 91: HEALTH AND SAFETY; NUISANCES

Section

General Provisions

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GENERAL PROVISIONS

§ 91.01 BOARD OF HEALTH; HEALTH OFFICER.

(A) *Composition.* The Board of Health and Safety shall be composed of one Council member from each ward of the city to be appointed by the Mayor and confirmed by the Council at the first meeting in May of each year.
(Prior Code, § 8.04.010)

(B) *Health Officer; qualifications; appointment.* The Health Officer of the city shall be a physician, health care administrator, registered nurse or a resident of the city who shall be appointed by the Mayor and confirmed by the Council at the first meeting in May of each year and the Health Officer to hold office until his or her successor has been appointed and qualified.
(Prior Code, § 8.04.020)

(C) *Secretary.* The city's Finance Officer shall act as Secretary of the Board of Health and Safety and shall keep such records as may be required by the Board.
(Prior Code, § 8.04.030)

(D) *Powers and duties.* The Board of Health shall exercise supervision over the health of the city, with full power to take all steps and measures necessary to promote the health, safety and welfare of the community and to enforce the removal of any nuisance, contagious or infectious disease, vermin, physical obstruction, unsafe or unclean condition, or any other hazard that threatens the health, safety and welfare of the community. The Board of Health shall have the power and authority, upon notice, to enter any premises in the city to inspect and to search for any said condition and shall have the power and authority to quarantine and/or issue citations or criminal complaints against any person failing to remedy said condition pursuant to the penalty and enforcement provisions of this chapter.
(Prior Code, § 8.04.040)

(E) *Health Officer; duties.*

(1) In addition to the duties herein described by and for the Board of Health, the Health Officer shall inspect and investigate complaints regarding the health, safety and welfare of the community, and shall also perform such duties as may be from time to time designated by the City Council.

(2) A report shall be issued regarding said complaints for consideration by the Council as to any action it may take to abate or otherwise correct the health hazard or nuisance.
(Prior Code, § 8.04.050)

(F) *Notices.* Any notices required by this chapter or by the rules and regulations of the Board of Health shall be in writing, signed by the Health Officer and shall be served by the Police Department, and any failure of any person to comply with any such notice shall be subject to the penalties as hereinafter in this chapter set forth.
(Prior Code, § 8.04.060)
(Ord. 1995-3, passed - -1995)

§ 91.02 LITTERING.

All persons are prohibited from throwing or depositing on any public street, alley, highway, boulevard or way or on any public park or other public property or on any private way within the city limits used by automobiles, vehicles, livestock or persons, any glass, bottles, tin cans, boxes, containers or any other deleterious article, material, substances or refuse that may be, or is calculated to be, injurious to other persons, animals, automobiles or vehicles, of any description or to throw or deposit

any such glass, bottles, tin cans, boxes, containers or other deleterious article, material, substance or refuse upon private lands and property of any person or persons without the permission of the owner thereof, and any and all persons who violates the provisions of this section shall be deemed guilty of a misdemeanor, and punished as provided in § 10.99 of this code of ordinances.
(Prior Code, § 8.32.010) (Ord. 230, passed - -1965) Penalty, see § 91.99

NUISANCES

§ 91.15 DEFINED; PROHIBITED.

(A) No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance, as defined herein.

(B) Whatever is dangerous to human health, whatever renders the ground, the water, the air or food a hazard or an injury to human health, and the following specific acts, conditions and things are, each and all of them, declared to constitute nuisances:

(1) *Abandoned property*. Any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash, or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects, or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of it unsightliness. Unsightly trash or junk includes property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements outside of a permanent structure, and shall include without being restricted deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawnmowers, motorcycles, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition;

(2) *Garbage and refuse*. Depositing, maintaining or permitting to be maintained or to accumulate upon any public, or private property any animal or vegetable matter which attends the processing, preparation, transportation, cooking, eating, sale or storage of meat, fish, vegetables, fruit and all other food or food products found within the city which are likely to cause or transmit disease, or which may be a hazard to health;

(3) *Bonfires in public places*. Burning, causing or permitting to be burned in any street, alley or public ground any dirt, filth, manure, garbage, sweepings, leaves, ashes, papers, rubbish or material of any kind;

(4) *Parking livestock trucks or trailers in residential districts*. Parking or permitting a livestock truck or trailer to remain on any street, area or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth; and

(5) *Outdoor toilets; where sewer available.* Erecting or maintaining an outside toilet on property where water and sewer is available in the street, abutting on such property.
(Prior Code, § 8.08.010) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.16 PUBLIC NUISANCE DEFINED.

A public nuisance consists in unlawfully doing an act, or omitting to perform a duty within the corporate limits of the city, or in any public grounds or parks belonging to the city or within one mile of the corporate limits of the city which act or omission either:

(A) Annoys, injures or endangers the comfort, repose, health or safety of others;

(B) Offends decency;

(C) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal or basin or any public park, square, street or highway; or

(D) In any way renders other persons insecure in life, or in the use of property, and which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.
(Prior Code, § 8.08.020) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.17 NOTICE TO ABATE.

When a nuisance is found to exist or a meritorious complaint that a nuisance exists is received by the city, the Chief of Police or Code Enforcement Officer shall investigate the nuisance and, if it is in violation of this subchapter, a notice to abate the nuisance shall be sent to the property owner or occupant. The owner or occupant shall have five days to abate the nuisance. Said notice shall be made by personal service or certified mail to the owner and/or occupant. If mail or personal service is refused, the notice may be posted on the property. The notice shall state the location of the property, the nature of the nuisance and the action necessary to abate the nuisance.
(Prior Code, § 8.08.030) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.18 ABATEMENT OF NUISANCE.

If the owner and/or occupant fails to abate said nuisance in accordance with the notice given, the City Council shall cause the abatement thereof and for such purpose may enter upon the property.
(Prior Code, § 8.08.040) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.19 SPECIAL ASSESSMENT OF COSTS OF ABATEMENT.

The Finance Officer shall cause an account to be kept against each lot or parcel of property for the cost of abating any nuisance thereon during the year, and the same shall be specially assessed in accordance with state law as a special lien on the property. The City Council shall approve the amount of each special assessment.
(Prior Code, § 8.08.050) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

GRASS AND WEEDS

§ 91.30 DUTY OF OWNER.

Permitting grass and weeds to grow to a length of ten inches on any private property, including vacant lots, is declared a nuisance and no owner of any lot place or area within the city or the agent of such owner or the occupant of such lot, place or area shall permit on such lot, place or area or upon any sidewalk abutting the same any grass weeds or deleterious unhealthful growths or other noxious matter that may be growing, lying or located thereon, and the growing of such weeds or other noxious or unhealthful vegetation is declared to be a nuisance. These areas lots, and places, maintained in such a condition constitutes a health hazard due to being the ideal breeding places for insects carrying the West Nile Virus.
(Prior Code, § 8.12.010) (Ord. 2008-6-8, passed 7-7-2008) Penalty, see § 91.99

§ 91.31 NOTICE TO DESTROY.

(A) The Health Officer or Code Enforcement Officer is authorized and empowered to notify in writing the owner of any such lot, place or area within the city or the agent of such owner or the occupant of such premises, to cut, destroy or remove any such grass, weeds or deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting the same.

(B) Such notice shall be given by delivering a written notice personally to the owner(s) of the property upon which the nuisance is located, or by depositing such notice in the United States Mail postage prepaid and addressed to owner(s) thereof at his or her last known address as the name appears on the last equalized assessment roll of the county. In the event a notice to remove is also given to the person(s) in possession or control of the property, such notice shall be given in either manner specified in this section and may be addressed to "occupant" or "to whom it may concern", if the name of such person(s) is not known.

(C) The person giving such notice shall file a copy thereof in the office of the Finance Officer, together with an affidavit or certificate stating the time and manner in which such notice was given. The failure of any owner or other person to receive such notice shall not effect in any manner the validity of any proceedings taken under this chapter.
(Prior Code, § 8.12.020) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.32 ACTION UPON NON-COMPLIANCE.

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with the notice within five days after the mailing thereof, the Code Enforcement Officer is authorized and empowered to provide for the cutting, destroying or removal of such weeds, grass or the deleterious matter or other noxious growths, and to defray the cost of the mowing, destruction thereof by special assessment against the property as set out in §§ 91.33 and 91.34 of this chapter. If the notification/mailing of notice to destroy is done two times during the year and there has been no compliance to those mailings, the city will be empowered to enter upon such lot, area or place to abate any future nuisance/health hazard without further written notice.
(Prior Code, § 8.12.030) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.33 COST ASSESSMENT.

The city's Finance Officer shall cause an account to be kept against each lot for the destruction of weeds, grass or the deleterious matter or other noxious growths and shall, thereupon, certify the account showing the amount, the description of the property and the owner thereof to the City Assessor who shall, thereupon, add such assessment to the county or general assessment against the property and shall certify such special assessment together with the regular to the County Auditor to be collected as municipal taxes for general purposes. The assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.
(Prior Code, § 8.12.040) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.34 RECOVERY BY CITY.

In lieu of spreading the cost of the destruction of such weeds, grass or the deleterious matter or other noxious growths, in the discretion of the City Council, the amount may be recovered in a civil action against the owner or occupant of such property.
(Prior Code, § 8.12.050) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating § 91.03 of this chapter shall be fined $25 for each such violation.
(Prior Code, § 8.16.010)

(C) In addition to the abatement procedures set forth in §§ 91.15 through 91.19 of this chapter, any person violating the provisions of §§ 91.15 through 91.19 of this chapter shall be guilty of a Class II misdemeanor and subject to a fine not to exceed $200. Each day that a violation of §§ 91.15 through 91.19 of this chapter exists and is not cured within the notice period shall constitute a separate offense punishable as set forth herein.
(Prior Code, § 8.08.060)

(D) Any person whose duty it is to destroy or remove such weeds grass or the deleterious matter or other noxious growths as set forth in §§ 91.30 through 91.34 of this chapter or who fails to destroy same within the time set forth in § 91.32 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding $100 in addition to other penalties as prescribed in §§ 91.30 through 91.34 of this chapter.
(Prior Code, § 3.12.060)
(Ord. 262, passed 1973; Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008; Ord. 2008-6-8, passed 7-7-2008)

CHAPTER 92: FIREWORKS

Section

92.01 Definition
92.02 Regulations and use

92.99 Penalty

§ 92.01 DEFINITION.

The term ***FIREWORKS*** means and includes any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and includes firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers or other fireworks of like construction, any fireworks containing an explosive or flammable compound, or any tablets or other device containing explosive substance. Nothing in this regulation shall be construed as applying to toy paper or plastic caps containing not more than 25/100 of a grain (16.20 milligrams) of explosive composition per cap. (Prior Code, § 8.28.010) (Ord. 1998-10-2, passed - -1998)

§ 92.02 REGULATIONS AND USE.

(A) The manufacture, sale and use of fireworks within the city shall be subject to the provision of the state statutes and regulations and the provisions of this code. Whichever restrictions are the more stringent shall control in the case of any conflict. ***FIREWORKS***, as used in this section, shall include all the items commonly known or sold as ***FIREWORKS***.

(B) It shall be unlawful to sell fireworks at retail within the city, except those fireworks items allowed under state law.

(C) (1) It shall be unlawful to ignite within the city any rocket or rocket-like projectile, commonly referred to as a "bottle rocket", whether or not the rocket has an audible explosive report.

(2) It shall be unlawful for anyone to throw, drop, discharge, ignite or cause to be ignited any fireworks while said person is an occupant of a parked or moving vehicle and in the city.

(3) It shall be unlawful for anyone to intentionally cause any ignited fireworks to be aimed, launched, thrown or dropped on or towards any structure, vehicle or person.

(4) It shall be unlawful to discharge fireworks after 11:00 p.m. or before 7:00 a.m. from June 27 through and including July 2. It shall be unlawful to discharge fireworks after 12:00 a.m. (midnight) or before 7:00 a.m. on July 3 through and including July 5.

(5) It shall be unlawful to discharge fireworks before 7:00 a.m. from December 31 through and including January 1 to 1:00 a.m.

(6) Special permit requests for fireworks within the city limits will be considered on a case by case basis.
(Prior Code, § 8.28.020) (Ord. 216, passed - -1961; Ord. 364, passed - -1994; Ord. 1998-10-2, passed - -1998; Ord. 2012-4-9, passed 5-7-2012) Penalty, see § 92.99

§ 92.99 PENALTY.

Any person violating any provision of this chapter shall be punished by imprisonment in county jail not to exceed 30 days or by a fine not exceeding $200 or by both such imprisonment and fine.
(Prior Code, § 8.28.030) (Ord. 216, passed - -1961; Ord. 1998-10-2, passed - -1998)