

**SUB-ANALYSIS  
CHAPTER 10**

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CHAPTER 10  
PUBLIC PROTECTION, CRIMES AND OFFENSES

Health

**SECTION 10.01. UNLAWFUL DEPOSIT OF GARBAGE, LITTER OR LIKE.** It is unlawful for any person to deposit garbage, rubbish, offal, the body of a dead animal, or other litter in or upon any public street, public waters or the ice thereon, public land, or, without the consent of the owner, private lands or water or ice thereon.

**SEC. 10.02. GARBAGE AND REFUSE DISPOSAL.** It is unlawful for any person to haul garbage or refuse without a permit therefor from the City, and in that event, in accordance with the following rules:

(1) that the garbage is hauled in containers that are water-tight on all sides and the bottom, and with tight fitting covers on top; (2) that all other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo; and, (3) that all garbage and other refuse shall be dumped or unloaded only at a sanitary land-fill, or other dumping area authorized by the City.

Source: City Code  
Effective Date: 9-1-75

**SEC. 10.03. OPEN BURNING OF LEAVES.**

**Subd. 1. Burning Permitted.** Subject to the provisions of Minnesota Statutes, Sections 88.16, 88.17 and 88.22, the open burning of dried leaves between September 15 and December 1 is hereby permitted.

**Subd. 2. Limits and Conditions.**

**A.** Burning shall be during daylight hours only.

**B.** No burning is permitted in streets.

**C.** All such fires shall be attended, at all times, by a person of suitable age and discretion.

**D.** No burning shall take place during an air pollution alert, warning or emergency declared by the Pollution Control Agency.

**Subd. 3. Permits.** It is unlawful for any person to burn leaves under this Section without a permit from the Fire Chief. No such permit shall be issued without a finding by the Fire Chief that there is no danger of fire to forests in the adjacent area. The permit may include such conditions as are reasonable under the circumstances.

**Subd. 4.** A copy of this Section, or any amendment thereof, shall be submitted to the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.

Source: Ordinance No. 106, 2nd Series  
Effective Date: 6-4-83

**SEC. 10.04. Recreational Fires and Burn Barrels.**

**Subd. 1. Definitions.** As used in this Section, the following words and terms shall have the meanings stated:

**A.** The term "**recreational fire**" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

**B.** The term "**open burning**" means the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudgepots and similar devices associated with safety or occupational uses typically considered open flames or recreational fires. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

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

**A.** Construct a recreational fire which exceeds 3 feet in diameter or 2 feet in height.

**B.** Construct a recreational fire in a ring of materials other than iron, stones, or bricks except that a recreational fire may be constructed in a dug earthen pit provided that all vegetation within 5 feet of the fire is cleared.

**C.** Construct a recreational fire within 25 feet from any buildings or combustible materials. Combustible materials are things such as wood, paper and plastics.

**D.** Allow conditions which could cause a fire to spread within 25 feet of a structure which conditions shall be eliminated prior to ignition.

**E.** Fail to constantly attend a recreational fire until the fire burns out completely or is extinguished.

**F.** Fail to provide at least one portable fire extinguisher or other approved on-site fire extinguishing equipment such as dirt, sand or garden hose until the fire is extinguished.

**G.** Ignite in a recreational fire treated lumber materials, construction debris, garbage, plastic materials or waste materials. The only materials permitted in a recreational fire are wood from trees, small branches, brush or charcoal.

**H.** A person who is NOT over 18 years of age to attend a recreational fire.

**I.** Fail to extinguish a recreational fire if it become offensive to others or is not under supervision of a person over 18 years in age.

**J.** Fail to extinguish a fire after being directed to do so by a police officer or firefighter.

**K.** Fail to immediately extinguish a recreational fire if the recreational fire poses a fire safety risk, if they are not in compliance with A through J, inclusive, above, or when directed to do so by a police officer, firefighter, fire warden or DNR officer.

**L.** Fail to immediately extinguish open burning if it creates or adds to a hazardous or objectionable situation when directed to do so by a police officer, fire fighter, fire warden or DNR officer.

Source: Ordinance No. 362, 2nd Series  
Effective Date: 6-5-2009

**Sec. 10.05. FEEDING OF PIGEONS.**

**A.** The feeding of pigeons is prohibited except for pigeon control programs contracted for by the City Council. No person shall feed a non-domesticated pigeon nor place feed in a place or manner that a reasonable person would expect to result in feeding a non-domesticated pigeon. This Section does not apply to domesticated pigeons such as those kept for racing, entertainment performances or agricultural purposes.

§10.05

( B. A violation of this Section 10.05 shall be a minimum fine of \$50.00.

Source: Ordinance No. 324, 2nd Series  
Effective Date: 05-03-2006

(Sections 10.06 through 10.19, inclusive, reserved for future expansion.)

(Pages 346 through 349 reserved)

Safety

**SEC. 10.20. DANGEROUS WEAPONS AND ARTICLES.**

**Subd. 1. Definition.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm. As used in this subdivision, "flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in Minnesota Statutes, Section 340A.101. As used in this subdivision "combustible liquid" is a liquid having a flash point at or above 100 degrees Fahrenheit.

**Subd. 2. Unlawful Acts.** 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/her 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 child under eighteen (18) years of age a firearm, air gun, ammunition, or explosive without the written consent of a parent or guardian. Possession of written evidence of prior consent signed by the child's parent or guardian is a complete defense to this charge.

**Subd. 3. Exception.** Nothing in Subdivision 2 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.

Source: Ordinance No. 227, 2nd Series  
Effective Date: 11-11-96

**Subd. 4. Discharge of Dangerous Weapons and Explosives.** It is unlawful for any person to fire or discharge any dangerous weapon, cannon, air gun, air rifle, or other similar device commonly referred to as a B-B gun, or fireworks as defined in Minnesota Statute 624.20, Subd. 1, in effect on April 30, 2002.

**Subd. 5. Exceptions.**

**A.** Subdivision 4 of this Section shall not apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or a peace officer in the discharge of his duty, or a person in the lawful defense of his person or family.

**B.** Subdivision 4 of this Section shall not apply to the discharge of firearms on a range authorized in writing by the Council.

**C.** Subdivision 4 of this Section shall not apply to firing or discharging any gun, pistol or other firearm, air pistol or B-B gun in that portion of the Rural Service District that is not platted. Except, it shall be unlawful to discharge a dangerous weapon within 500 feet of any structure without the consent of the owner, on any property owned by the Chisholm Hibbing Airport Authority or on any property operated by the Hibbing Parks and Recreation Department without approval of the Parks and Recreation Department.

**Subd. 6. Possession and Sale of Fireworks.** It is unlawful for any person to sell or have in possession for the purpose of sale, except as allowed in Subdivision 5 of this Section, fireworks as defined in Minnesota Statute 624.20, Subd. 1, in effect on April 30, 2002.

Source: Ordinance No. 277, 2nd Series  
Effective Date: 7-11-02

**Subd. 7. Exposure of Unused Containers.** 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.

Source: Ordinance No. 227, 2nd Series  
Effective Date: 11-11-96

**SEC. 10.21. DOG REGULATION AND LICENSES.**

**Subd. 1. Running at Large Prohibited.** It is a petty misdemeanor for any person who is the owner, or other person in possession of a dog, to permit such dog to run at large; provided, that such dog shall not be deemed to be running at large if it is on a leash and otherwise under the control of an accompanying person or on the property of the owner. For purposes of this Section, the term "owner" means any person who harbors, feeds, boards or keeps a dog under his/her control.

**Subd. 2. License Required.** It is a petty misdemeanor for any person, or other possessor, of a dog over six (6) months of age to fail to obtain a proper City license therefor.

Source: Ordinance No. 251, 2nd Series  
Effective Date: 11-9-98

**Subd. 3. Application.**

**A.** Application for a dog license shall be made on a form supplied by the City. Dog Licenses shall be issued on a fiscal year basis. Renewal of dog licenses shall be made on or before the first day of April annually.

Source: Ordinance No. 322A, 2nd Series  
Effective Date: 04-06-2006

**B.** When application is made for a license on a spayed female, or a neutered male, said application shall require the owner to supply the name, age, breed, sex, color and markings, and present a statement from a qualified veterinarian to the effect that the operation was performed and giving the date thereof.

**C.** Owners or persons claiming an impounded and unlicenced dog shall complete a license application and purchase a dog license from the Hibbing Animal Shelter prior to the release of the animal.

Source: Ordinance No. 300, 2nd Series  
Effective Date: 10-28-2003

**D.** All licensed dogs and cats shall wear a collar and have a tag firmly affixed thereto evidencing its license number. A duplicate for a lost tag may be issued by the City Clerk-Treasurer upon presentation of the receipt showing payment of the license fee, and upon payment of the fee of \$2.00 for issuance of the duplicate.

Source: Ordinance No. 354, 2nd Series  
Effective Date: 9-18-2008

**E.** Dog licenses shall not be transferable, and no refunds shall be made on any dog license fee because of leaving the City or death of the dog.

**Subd. 4. Fees**

**A.** Any person owning or possessing a dog shall pay a yearly license fee for each such dog. The City Council may, from time to time, by Resolution, set such license fees.

**B.** No license shall be required for dogs brought into the City for the purpose of participating in any shows. Any properly identified service dog which aids persons who are totally or partially blind or deaf or have physical or sensory disabilities shall be issued a dog license at no charge upon providing proof of certification of training as a service dog.

**Subd. 5. Vaccination Requirements.**

**A.** Every dog, six (6) months or older, shall be vaccinated against rabies.

**B.** Every dog shall be re-vaccinated thereafter in accordance with the current "Compendium of Animal Rabies Vaccines, Part II: Vaccines Marketed in U.S. and NASPHV Recommendations" prepared by the National Association of State Public Health Veterinarians, Inc., incorporated herein by reference and on file in the office of the City Clerk and/or Hibbing Animal Shelter.

**C.** A metal or durable plastic current rabies vaccination tag, issued by the attending veterinarian, shall be securely attached to the collar or harness of the dog by the owner. Whenever the dog is out of doors, whether on or off the owner's premises, the collar or harness with the vaccination tag must be worn. In addition, the owner may be requested to provide a current certificate of rabies vaccination issued by the veterinarian.

**D.** The cost of rabies vaccination shall be borne by the owner of the dog.

Source: Ordinance No. 300, 2nd Series  
Effective Date: 10-28-2003

**Subd. 6. Unlawful Act.** It is a petty misdemeanor for any person to wrongfully remove or steal the collar from any dog.

Source: Ordinance No. 251, 2nd Series  
Effective Date: 11-9-98

**Subd. 7. Animal Shelter.** Any dog found in the City without a tag, running at large, determined to be abandoned, or seized shall be placed in the Animal Shelter, and an accurate record of the time of such placement shall be kept on each dog. Every dog so placed in the Animal Shelter shall be held for redemption by the owner for a period of not less than five regular business days. A "regular business day" is one during which the Animal Shelter is open for business to the public for at least four hours between 8:00 o'clock A.M. and 4:00 o'clock P.M. Impoundment records shall be preserved for a minimum of six months and shall show (1) the description of the animal by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the animal was seized; (3) the date of seizure; (4) the name and

address of the person from whom any animal three months of age or over was received; and, (5) the name and address of the person to whom any animal three months of age or over was transferred. If unclaimed, such dog becomes the property of the Hibbing Animal Shelter for disposition as the Shelter deems fit.

Source: Ordinance No. 322A, 2nd Series  
Effective Date: 04-06-2006

**Subd. 8. Exception.** Any dog seized under Minnesota Statutes, Section 343.22 or 343.29, shall be held for 10 days. A person claiming an interest in a dog in custody under this Section may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual costs of care and keeping. The security must be posted within 10 days of the seizure inclusive of the date of the seizure.

**Subd. 9. Notice of Impounding.** Upon impounding a dog under this Section, notice shall be given the owner or person claiming interest in the dog by delivering or mailing it to a person claiming an interest in the dog or by posting a copy of it at the place where the dog is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

**A.** A description of the dog seized; the authority and purpose for the seizure; the time, place, and circumstances under which the dog was seized; and the location, address, telephone number, and contact person where the dog is kept;

**B.** A statement that a person claiming an interest in the dog may post security to prevent disposition of the dog and may request a hearing concerning the seizure or impoundment and that failure to do so within five days of the date of the notice will result in disposition of the dog;

**C.** A statement that all actual costs of the care, keeping, and disposal 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; and

**D.** When a dog has been impounded under Minnesota Statutes, Section 343.22 or 343.29, a form that can be used by a person claiming an interest in the dog for requesting a hearing under this Section.

**Subd. 10. Right to Hearing and Release From Animal Shelter.** Upon request of a person claiming interest in the dog, pursuant to Subparagraph D of Subd. 9, above, which request must be made within 10 days of the date of seizure, a hearing shall be held within five business days of the request to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under

MSA Section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under MSA Section 343.29, the City may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming interest in the dog who is aggrieved by a decision of a hearing officer under this Section may seek a Court Order governing the seizure or impoundment within five days of the notice of the order.

**A.** The judge or hearing officer may authorize the return of the dog, if the judge or hearing officer finds that:

1. The dog is physically fit; and

2. The person claiming an interest in the dog can and will provide the care required by law for the dog.

**B.** The person claiming an interest in the dog is liable for all actual costs of the care, keeping, and disposal of the dog, except if a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the City and the person claiming an interest in the dog before return of the dog to the person.

1. If such a dog is owned by a resident of the City, the cost shall include the purchase of a license, if unlicensed, payment for the dog's maintenance while in custody, and may include an immunization fee of any such dog for rabies.

2. If such a dog is owned by a person not a resident of the City, the cost shall include payment for the dog's maintenance while in custody, and may include an immunization fee of any such dog for rabies.

Source: Ordinance No. 236, 2nd Series

Effective Date: 2-28-97

#### **Subd. 11. Barking Dogs.**

**A.** It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual provided that such noise lasts for a period of more than five minutes continuously or intermittent barking that continues for more than fifteen minutes and is plainly audible off of the owner's or caretaker's premises. It shall not be a violation of this subdivision if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located. This subdivision shall not apply to the Animal Shelter or licensed veterinarians.

**B.** A first time violation of this Subdivision shall be deemed a petty misdemeanor.

**C.** Any police officer or animal control officer may enter onto private property and seize any barking dog, provided that the following conditions exist:

- (a) There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking;
- (b) The officer reasonably believes that the barking meets the criteria set forth in paragraph A of this Subdivision 11;
- (c) The officer has made reasonable attempts to contact the owner of the dog(s) or the owner of the property and those attempts have either failed or have been ignored;
- (d) The seizure will not involve forced entry into a private residence. Use of a passkey obtained from a property manager, landlord, innkeeper, or other person authorized to have such a key shall not be considered as a forced entry;
- (e) No other less intrusive means to stop the barking is available; and,
- (f) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

**D.** Any dog seized under the provisions of paragraph C of this Subdivision 11 shall be taken to the animal control shelter and kept there to be reclaimed by the owner. No impound fee shall be charged unless the circumstances indicate that the owner failed to cooperate with or obstructed an animal control or police officer's attempts to abate the noise through other less intrusive means. Any dog seized under paragraph C of this Subdivision 11 which is unclaimed may be disposed of according to the provisions of Section 10.21, Subd. 7.

Source: Ordinance No. 322A, 2nd Series  
Effective Date: 04-06-2006

**Subd. 12. Immobilization of Dogs.** For the purpose of enforcement of this Section any peace officer, dog catcher, or other person assisting a peace officer or dog catcher may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a dog.

Source: Ordinance No. 236, 2nd Series  
Effective Date: 2-28-97

**Subd. 13. Dangerous and Potentially Dangerous Dogs.**

**A. Definitions.** For the purpose of this subdivision, the terms defined in this section have the meanings given them.

1. **Dangerous dog.** "Dangerous dog" means any dog that has:
  - (a) without provocation, inflicted substantial bodily harm on a human being on public or private property;
  - (b) killed a domestic animal without provocation while off the owner's property; or
  - (c) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

2. **Potentially dangerous dog.** "Potentially dangerous dog" means any dog that:

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

3. **Proper enclosure.** "Proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

4. **Owner.** "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

5. **Substantial bodily harm.** "Substantial bodily harm" has the meaning given it under Minnesota Statute Section 609.02, Subd. 7a.

6. **Great bodily harm.** "Great bodily harm" has the meaning given it under Minnesota Statute Section 609.02, Subdivision 8.

7. **Animal control authority.** "Animal control authority" means the designee of the City that is responsible for animal control operations in the City.

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

**B. Dangerous dogs; registration.**

1. **Requirement.** No person may own a dangerous dog in the City unless the dog is registered as provided in this section.

2. **Registration.** The animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

- (a) a proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;
- (b) a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog;
- (c) the owner has paid an annual fee of \$100, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and
- (d) the owner has had microchip identification implanted in the dangerous as required under paragraph C. of this Subdivision 13.

3. **Warning symbol.** If the animal control authority issues a certificate of registration to the owner of a dangerous dog pursuant to subdivision 13.B.2., the animal control authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.

4. **Fee.** The animal control authority may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.

5. **Dangerous dog designation review.** Beginning six months after a dog is declared a dangerous dog, an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

6. **Law enforcement; exemption.** The provisions of this subdivision do not apply to dangerous dogs used by law enforcement officials for police work.

7. **Exemption.** Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

- (a) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (b) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
- (c) who was committing or attempting to commit a crime.

8. **Tag.** A dangerous dog registered under this subdivision must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol affixed to the dog's collar at all times.

9. **Contracted Services.** The animal control authority may contract with another political subdivision or other person to provide the services required under Minnesota Statutes 347.50 to 347.565. Notwithstanding any contract entered into under this subdivision 13.B.9, all fees collected under Minnesota Statutes Section 347.50 to 347.54 shall be paid to the animal control authority and all certificates of registration must be issued in the name of the animal control authority.

**C. Microchip identification.** The owner of a dangerous or potentially dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the animal control authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.

**D. Dangerous dogs; requirements.**

1. An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

2. An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.

3. An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.

4. An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the dog and have it sterilized at the owner's expense.

5. A person who owns a 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 dangerous dog that will reside at the property.

6. A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the dog 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.

**E. Confiscation.**

**1. Seizure.**

(a) The animal control authority having jurisdiction shall immediately seize any dangerous dog if:

(i) after 14 days after the owner has notice that the dog is dangerous, the dog is not validly registered under paragraph B. of this Subdivision 13;

(ii) after 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper

liability insurance or surety coverage as required under paragraph B. of this Subdivision 13;

(iii) the dog is not maintained in the proper enclosure as required under paragraph D. of this Subdivision 13;

(iv) the dog is outside the proper enclosure and not under physical restraint of a responsible person as required under paragraph D. of this Subdivision 13; or

(v) the dog is not sterilized within 30 days as required under paragraph D. of this Subdivision 13.

(b) If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

2. **Reclaimed.** A dangerous dog seized under 1 above may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the appropriate animal control authority that the requirements of paragraph B of this Subdivision 13 will be met. A dog not reclaimed under this subdivision within seven days may be disposed of as provided under Minnesota Statute Section 35.71, Subdivision 3, and the owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.

3. **Subsequent offenses; seizure.** If a person has been convicted of a misdemeanor for violating a provision of paragraph B of this Subdivision 13, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under Minnesota Statutes Section 35.71, Subdivision 3.

#### **F. Disposition of Seized Animals.**

1. **Hearing.** The owner of any dog declared dangerous has the right to a hearing by an impartial hearing officer.

2. **Security.** A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.

3. **Notice.** The authority declaring the dog dangerous shall give notice of this section by delivering or mailing it to the owner of the dog, 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. 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, if applicable, prior potentially dangerous dog declarations for the dog, 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 section 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;

(4) a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of sections 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 the 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.

4. **Right to hearing.** 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 that 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 on the matter within ten 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 must be provided to the animal control authority.

#### **G. Restrictions.**

1. **Dog ownership prohibited.** Except as provided in 3 below, no person may own a dog if the person has:

- (1) been convicted of a third or subsequent violation of section 347.51, 347.515, or 347.52;
- (2) been convicted of a violation under section 609.205, clause (4);

(3) been convicted of a gross misdemeanor under section 609.226, subdivision 1;

(4) been convicted of a violation under section 609.226, subdivision 2; or

(5) had a dog ordered destroyed under section 347.56 and been convicted of one or more violations of section 347.51, 346.515, 347.52, or 609.226, subdivision 2.

**2. Household members.** If any member of a household is prohibited from owning a dog under 1 above, unless specifically approved with or without restrictions by an animal control authority, no person in the household is permitted to own a dog.

**3. Dog ownership prohibition review.** Beginning three years after a conviction under 1 above that prohibits a person from owning a dog, and annually thereafter, the person may request that the animal control authority review the prohibition. The animal control authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the animal control authority deems appropriate. The animal control authority may rescind the prohibition entirely or rescind it with limitations. The animal control authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the animal control authority rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the animal control authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the animal control authority may permanently prohibit the person from owning a dog in this state.

**H. Penalty.** It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous dog, to fail to renew the registration of a dangerous dog, to fail to account for a dangerous dog's death or change of location where the dog will reside, to sign a false affidavit with respect to a dangerous dog's death or change of location where the dog will reside, or to fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.

**I. Destruction of dog in certain circumstances.**

**1. Circumstances.** Notwithstanding paragraphs B., C., D. and E. of this Subdivision 13, a dog may be destroyed in a proper and humane manner by the animal control authority if the dog:

(1) inflicted substantial or great bodily harm on a human on public or private property without provocation;

(2) inflicted multiple bites on a human on public or private property without provocation;

(3) bit multiple human victims on public or private property in the same attack without provocation; or

(4) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

2. **Hearing.** The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker.

**J. Declaration of dangerous or potentially dangerous dog.** The City Animal Control Authority may declare a dog dangerous or potentially dangerous. A written notice declaring the dog dangerous or potentially dangerous shall be personally served on the owner of the dog. A copy of the notice served on the dog owner, along with an Affidavit of Service, shall be delivered to the Hibbing Police Department. Once served notice, the owner of a dangerous or potentially dangerous dog shall have ten (10) days to provide proof to the Animal Control Authority that the dog has been implanted with a microchip identifying the dangerous or potentially dangerous dog. For the purposes of a notice declaring a dog dangerous or potentially dangerous, the notice must include a copy of this Subdivision 13 and Minnesota Statute Sections 347.50 and 347.56 and a form with instructions on how to request an appeal of the declaration of the owner's dog as dangerous or potentially dangerous.

**K. Appeal.** Any owner of a dog declared dangerous or potentially dangerous may appeal by serving upon the City Clerk within ten (10) days of receipt of the notice declaring the dog dangerous or potentially dangerous, inclusive of the date the notice is received, a written notice of appeal. The appeal hearing shall be heard by a hearing officer appointed by the City Administrator within twenty (20) days of the day the declaration is served upon the dog owner. The appeal hearing shall be conducted in an informal manner. The hearing need not be transcribed, but may be transcribed at the sole expense of the party who requests transcription. After consideration of all evidence submitted, the hearing officer shall make written findings of fact and conclusions on the issue of whether the dog is a dangerous or potentially dangerous dog within ten (10) business days of the date of the appeal hearing. The findings and conclusions shall be served upon the owner by U.S. mail, within the ten (10) day time period. An owner's right to appeal or otherwise contest a dangerous or potentially dangerous dog declaration shall be deemed waived if the owner fails to serve a written request for appeal as required herein or fails to appear at the scheduled hearing date.

**L. Compliance with dangerous or potentially dangerous dog regulations.** Immediately upon receipt of the notice declaring the dog dangerous or potentially dangerous, the owner shall confine the dog in a proper enclosure as defined in paragraph A of this Subdivision 13. If no timely appeal is received by the City Clerk or the appeal hearing officer finds the owner's dog is dangerous or potentially dangerous, the owner shall comply with the requirements of this Subdivision 13.

**M. Violations.**

1. It shall be unlawful for any person to own a dangerous or potentially dangerous dog in the City unless the City has issued a certificate of registration to the owner of a dangerous or potentially dangerous dog.

2. It shall also be unlawful for the owner of a dangerous or potentially dangerous dog to fail to present to the Animal Control Authority evidence that:

- (a) a proper enclosure exists for the dangerous dog;
- (b) a surety bond issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable to the City of Hibbing in the sum of at least \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog.
- (c) the owner has paid an annual fee of \$100.00 in addition to the regular dog license fee, to obtain a certificate of registration for a dangerous dog.
- (d) the owner has had microchip identification implanted in the dangerous or potentially dangerous dog as required under paragraph C of this Subdivision 13.

Source: Ordinance No. 354, 2nd Series  
Effective Date: 9-18-2008

**Subd. 14. Biting Dogs.** Any dog which has bitten a human being shall, for the purpose of observation, forthwith be placed in the Animal Shelter for a period of ten (10) days. If the owner can provide documentation of a current rabies vaccination, it will be up to the discretion of the Animal Control Officer whether the dog will be held for 10 days. Prior to release from the Shelter, the animal must be examined by a licensed veterinarian to verify that there are no clinical signs of rabies present. Impounding, maintenance and veterinarian charges shall be the obligation of the owner or other person in possession and shall be paid before the dog is released. If such person fails or refuses to claim such dog, such charges may be recovered in a civil action.

Source: Ordinance No. 322A, 2nd Series  
Effective Date: 04-06-2006

**Subd. 15. Dog Waste.** It is a petty misdemeanor for any owner to:

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

\$10.21

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

Source: Ordinance No. 251, 2nd Series  
Effective Date: 11-9-98

**Subd. 16. Number of Dogs Restricted.** It is a petty misdemeanor to own or keep more than four (4) dogs over six (6) months of age per dwelling unit or eight (8) dogs over six (6) months of age per multiple dwelling structure, whichever is lesser, in the Urban Service District.

Source: Ordinance No. 300, 2nd Series  
Effective Date: 10-28-2003

**SEC. 10.22. CAT REGULATION.**

**Subd. 1. Running at Large Prohibited.** It is a petty misdemeanor for any person who is the owner, or other person in possession, of a cat to permit such cat to run at large in any street, alley or public place; provided, however, that such cat shall not be deemed to be running at large if securely fastened or confined on the premises of the owner. For purposes of this Section, the term "owner" means any person who harbors, feeds, boards or keeps a cat under his/her control.

Source: Ordinance No. 251, 2nd Series  
Effective Date: 11-9-98

**Subd. 2. Enforcement.** (Repealed by Ordinance No. 251, 2nd Series, adopted 10-19-98.)

**Subd. 3. Number of Cats Restricted.** It is a petty misdemeanor to own or keep more than four (4) cats over six (6) months of age per dwelling unit or eight (8) cats over six (6) months of age per multiple dwelling structure, whichever is lesser, in the Urban Service District.

Source: Ordinance No. 300, 2nd Series  
Effective Date: 10-28-2003

**Subd. 4. Biting Cats.** Any cat which has bitten a human being shall, for the purpose of observation, forthwith be placed in the Animal Shelter for a period of ten (10) days. If the owner can provide documentation of a current rabies vaccination, it will be up to the discretion of the Animal Control Officer whether the cat will be held for 10 days. Prior to release from the Shelter, the animal must be examined by a licensed veterinarian to verify that there are no clinical signs of rabies present. Impounding, maintenance and veterinarian charges shall be the obligation of the owner or other person in possession and shall be paid before the cat is released. If such person fails or refuses to claim such cat, such charges may be recovered in a civil action.

Source: Ordinance No. 322A, 2nd Series  
Effective Date: 04-06-2006

**SEC. 10.23. ANIMALS AND FOWL REGULATION.**

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

**A.** The term "farm animals" means cattle, horses, mules, llamas sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens and honey bees.

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

Source: Ordinance No. 354, 2nd Series  
Effective Date: 9-18-2008

**Subd. 2. Keeping.** It is unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the City within the Rural Service District except within such Districts which are legally platted, or, (2) animals kept as part of a show licensed under the City Code, or, (3) animals used in a parade for which a permit has been issued under the City Code, or, (4) animals kept in a laboratory for scientific or experimental purposes, or, (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

**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 an animal in a cruel or inhumane manner.

**Subd. 5. Housing.** It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.

**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 special permission therefor from the owner.

Source: Ordinance No. 73, 2nd Series  
Effective Date: 10-7-80

**Subd. 7. Running at Large Prohibited.** It is a petty misdemeanor for any person who is the owner, or other person in possession of an animal, to permit such animal to run at large; provided, that such animal shall not be deemed to be running at large if it is on a leash and otherwise under the control of an accompanying person or on the property of the owner. For purposes of this Section, the term "owner" means any person who harbors, feeds, boards or keeps an animal under his/her control.

Source: Ordinance No. 354, 2nd Series  
Effective Date: 9-18-2008

## SEC. 10.24. CURFEW.

### **Subd. 1. Findings and Purpose.**

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

**B.** Because of their lack of maturity and experience, juveniles are particularly susceptible to becoming victims of older perpetrators. The younger a person is, the more likely he or she is to be a victim of crime.

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

**D.** A City-wide curfew will reduce juvenile victimization and crime and will advance public safety, health, and general welfare.

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

1. **"Juvenile"** means a person under the age of eighteen (18) years. The term does not include persons under 18 who are married or have been legally emancipated.

2. **"Parent"** means birth parents, adoptive parents, and step-parents.

3. **"Guardian"** means an adult appointed by a Minnesota District Court Order.

4. **"Responsible Adult"** means a person eighteen (18) years or older specifically authorized by law or by a parent or guardian to have custody and control of a juvenile.

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

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

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

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

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

Source: Ordinance No. 237, 2nd Series  
Effective Date: 5-7-97

10. **"Fail to Supervise".** A parent, guardian or responsible adult commits the offense of failing to supervise a juvenile or tending to cause the delinquency of a juvenile, if the parent, guardian or responsible adult:

1. Is the parent, guardian, or responsible adult, which adult person resides within the corporate limits of the City; and,

2. Fails to provide appropriate and responsible supervision of the juvenile; or who aids, contributes or becomes responsible for the neglect, abuse or delinquency of the juvenile. For purposes of this section, a person is responsible for the delinquency of a juvenile or has failed to provide appropriate and reasonable supervision when:
  - a. The juvenile has committed three or more delinquent acts within a two-calendar-year period, which events have been referred to the juvenile court, or
  - b. The person fails to undertake counseling requirements ordered by a juvenile court having jurisdiction over the juvenile, or
  - c. The person fails to take meaningful and reasonable disciplinary or remedial action in response to prior delinquent acts of the juvenile, or
  - d. The act or failure to act by the person demonstrates a willful lack of commitment to prevent future delinquent acts by the juvenile;
3. Solicits, requests, commands, encourages or intentionally aids or acts with the juvenile in violation of any federal, state or local law; or
4. Aids, contributes to, or becomes legally responsible for the neglect, abuse or delinquency of the juvenile; or
5. Willfully abuses, neglects or abandons the juvenile in any manner likely to cause the juvenile unnecessary suffering or serious injury to his/her health or morals; or
6. Provides, encourages or permits the juvenile to possess or consume an alcoholic beverage or a controlled substance, other than in accordance with Minnesota Statute.

Source: Ordinance No. 289, 2nd Series  
Effective Date: 07-11-2003

**Subd. 3. Prohibited Acts.**

- A. It is unlawful for a juvenile under the age of twelve (12) years to be present in any public place or establishment within the City.

**1.** Any time between 9:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 A.M. of the following day.

**2.** Any time between 10:00 P.M. on any Friday or Saturday and 5:00 A.M. of the following day.

**B.** It is unlawful for a juvenile ages twelve (12), thirteen (13), or fourteen (14) years to be present in any public place or establishment within the City.

**1.** Any time between 10:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 A.M. of the following day.

**2.** Any time between 11:00 P.M. on any Friday or Saturday and 5:00 A.M. of the following day.

**C.** It is unlawful for a juvenile ages fifteen (15), sixteen (16), or seventeen (17) years to be present in any public place or establishment within the City.

**1.** Any time between 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 A.M. of the following day.

**2.** Any time between 11:59 P.M. on any Friday or Saturday and 5:00 A.M. on the following day.

**D.** It is unlawful for any parent or guardian of a juvenile knowingly, or through negligent supervision, to permit the juvenile to be in any public place or establishment within the City during the hours prohibited in this Subdivision.

**E.** It is unlawful for any proprietor of an establishment within the City to knowingly permit a juvenile to remain in the establishment or on the establishment's property during the hours prohibited in this Subdivision. If the proprietor is not present at the time of the curfew violation, the responding officer shall leave written notice of the violation with an employee of the establishment. A copy of the written notice shall be served upon the establishment's proprietor personally or by certified mail.

Source: Ordinance No. 237, 2nd Series  
Effective Date: 5-7-97

**F.** It is unlawful for the parent, guardian or responsible adult having the care and custody of a juvenile to knowingly permit such juvenile to loiter, idle, wander or stroll, upon, about, or in any of the public streets, avenues, alleys, parks, squares, playgrounds, public lots, public places, public buildings, vacant lots or other unsupervised places between the hours designated as curfew and sunrise of the following morning, except when the juvenile is

accompanied by his or her parent, guardian or responsible adult or except where the juvenile is upon an emergency errand or legitimate business directed by his or her parent, guardian or responsible adult.

When any juvenile is found violating any of the provisions of this section, a presumption shall arise that the parent, guardian or responsible adult allowed, permitted, assisted, aided, abetted and encouraged such juvenile in such violation.

**G.** It is unlawful for any parent or guardian of a juvenile to, by word or deed or failure to act, fail to supervise said juvenile, to encourage, contribute toward, cause or tend to cause said juvenile to become a "neglected child", a "delinquent child" or a "habitual truant", a "runaway", a "juvenile petty offender", a "juvenile alcohol offender", or a "juvenile controlled substance offender" as defined by Minnesota Statute 260.015, whether or not a petition for adjudication be sought or sustained in St. Louis County juvenile court.

**H.** It is unlawful for a parent, after receiving a written warning notice of a curfew violation, to knowingly permit a juvenile to remain upon any City street, alley, right-of-way, or similar place under circumstances not constituting an exception to, or otherwise beyond the scope of, this section.

**I.** The parent of a juvenile shall have violated this section if, within twelve (12) months after receipt of a written warning, a second curfew violation against the same juvenile is issued.

**J. Procedure.**

If a police officer reasonably believes that a juvenile is on the streets in violation of the curfew ordinance, the officer shall notify the juvenile that he or she is in violation of the ordinance and shall require the juvenile to provide his or her name, address and telephone number and how to contact his or her parent. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or drivers's license, or permit, a police officer on the street shall use his/her best judgment in determining age. If the police determine that a person is in violation of this ordinance, he shall take the juvenile to the police station or other appropriate holding facility where a parent shall immediately be notified to come for the juvenile whereupon they shall be questioned, and a written warning notice shall be issued to both the juvenile and the parent or parents. However, this does not preclude a police officer, using his discretion, from transporting said juvenile to his home.

Source: Ordinance No. 289, 2nd Series  
Effective Date: 07-11-2003

**Subd. 4. Defenses.**

**A.** It is an affirmative defense for a juvenile to prove that:

1. The juvenile was accompanied by his or her parent, guardian, or other responsible adult.

2. The juvenile was engaged in a lawful employment activity or was going to or returning home from his or her place of employment.

3. The juvenile was involved in an emergency situation.

4. The juvenile was going to, attending, or returning home from an official school, religious, or other recreational activity sponsored and/or supervised by a public entity or a civic organization.

5. The juvenile was on an errand at the direction of a parent or guardian.

6. The juvenile was exercising First Amendment rights protected by the United States Constitution or Article I of the Constitution of the State of Minnesota.

7. The juvenile was engaged in interstate travel.

8. The juvenile was on the public right-of-way boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure, or residence.

**B.** It is an affirmative defense for a proprietor of an establishment to prove that:

1. The proprietor or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established by (1) a valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person; (2) a valid military identification card issued by the United States Department of Defense; or (3) in the case of a foreign national, from a nation other than Canada, by a valid passport; or other verifiable means, including, but not limited to, school identification cards and birth certificates.

2. The proprietor or employee promptly notified the responsible police agency that a juvenile was present on the premises of the establishment during curfew hours.

**C.** It is an affirmative defense for a parent, guardian or responsible adult to prove that:

1. the parent, guardian, or responsible adult is a direct victim of that act or conduct which resulted in the juvenile being subject to the jurisdiction of the juvenile court; or

2. the parent, guardian, or responsible adult reported the act or event to appropriate governmental authorities at or near the time the juvenile committed the wrongful or delinquent act or conduct; or

3. the parent, guardian, or responsible adult provided reasonable and appropriate supervision to the juvenile, under the totality of the circumstances. In assessing the reasonableness or appropriateness of the person's supervisory actions, the court will consider:

- a. The severity of the offense committed by the juvenile;
- b. The number of prior offenses committed by the juvenile;
- c. The person's knowledge of the juvenile's wrongful conduct or behavior;
- d. The discipline, counseling or other remedial measures taken by the person, after obtaining knowledge of the wrongful behavior of the juvenile; and
- e. Any other action by the person which demonstrates a reasonable commitment and effort to prevent future delinquent or wrongful conduct, behavior or acts by the juvenile.

**Subd. 5. Penalty.**

**A.** Violation of Subdivision 3, Subparagraphs A, B or C above will be prosecuted pursuant to Minnesota Statute Section 260.195 and will be subject to the penalties therein.

**B.** Upon conviction for a violation of Subdivision 3, Subparagraphs D, E, F, G, H or I above, punishment shall be imposed by a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) provided further, the sentencing court may suspend imposition of judgment or sentence upon parole for the successful performance of supervised community public service of not less than twenty (20) hours.

**Subd. 6. Review.** The Council shall conduct yearly reviews of this Section to assess the effectiveness of and continuing need for a juvenile curfew. Prior to the annual review, the Chief of Police shall prepare and submit a report to the Council evaluating violations of this Section and juvenile crime and victimization during the preceding year.

Source: Ordinance No. 237, 2nd Series  
Effective Date: 5-7-97

**SEC. 10.25. TOBACCO.**

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

Source: Ordinance No. 243, 2nd Series  
Effective Date: 9-4-97

**Subd. 2. Possession By Minor.** It is unlawful for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the City.

**Subd. 3. Use By Minor.** It is unlawful for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, 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 product, or tobacco related device to any minor; and

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

**E.** This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the city.

**Subd. 5. False Identification.** It is unlawful for any minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another

person or one in 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 part of a lawfully recognized religious, spiritual or cultural ceremony. It is 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.

Source: Ordinance No. 226, 2nd Series  
Effective Date: 10-5-96

**Subd. 7. Penalty.** Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices shall take tobacco related education classes as directed by the Hearing Officer.

Source: Ordinance No. 243, 2nd Series  
Effective Date: 9-4-97

**SEC. 10.26. POSSESSION OF DANGEROUS WEAPONS IN A SCHOOL ZONE.**

**Subd. 1. Unlawful Acts.** It is unlawful for any person to:

**A.** Possess, store, or keep a dangerous weapon or use or brandish a replica firearm or a BB gun in a school zone; or

**B.** Possess, store, or keep a replica firearm or a BB gun in a school zone.

**C.** As used in this section:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter;

(2) "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm

As used in this subdivision, "flammable liquid" means any liquid having a flashpoint below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in Minn. Stat. 340A.101. As used in this

subdivision, "combustible liquid" is a liquid having a flash point at or above 100 degrees Fahrenheit.

(3) "Replica firearm" means a device or object that is not defined as a dangerous weapon, and that is a facsimile or toy version of, and reasonably appears to be a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, or any other firearm. The term replica firearm includes, but is not limited to, devices or objects that are designed to fire only blanks.

(4) "School Zone" means:

(i) any property owned, leased, or controlled by a school district or any organization operating a nonpublic school, as defined in Minn. Stat. Section 123B.41, subdivision 9, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or co-curricular activities are regularly provided;

(ii) the area surrounding school property as described in clause (i) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and

(iii) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

D. This section does not apply to:

(1) licensed peace officers, military personnel, or students participating in military training, who are performing official duties;

(2) persons who carry pistols according to the terms of a permit;

(3) persons who keep or store in a motor vehicle pistols in accordance with Minn. Stat. Sections 624.714 and 624.715 or other firearms in accordance with Minn. Stat. Section 97B.045;

(4) firearm safety or marksmanship courses or activities conducted on school property;

(5) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard;

(6) a gun or knife show held on school property; or

(7) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal.

**Sub. 2. Exceptions.** Nothing in this section prohibits the possession of the articles mentioned by museums or collectors of art or for other lawful purposes of public exhibition.

Source: Ordinance No. 257, 2nd Series  
Effective Date: 7-1-1999

**SEC. 10.27. OBSTRUCTING A PUBLIC OFFICER.**

**Subd. 1.** It is a petty misdemeanor for any person to flee from a police officer or police vehicle in disregard of any visible or audible notice to halt given by or from such police officer or police vehicle when such person knows or reasonably should know the same to be a police officer or police vehicle.

Source: Ordinance No. 258, 2nd Series  
Effective Date: 7-1-1999

**SEC. 10.28 SOCIAL HOST**

**Subd. 1 Purpose and Findings.** The City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplies the alcohol. The City Council finds:

**A.** Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

**B.** Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption such as alcohol overdose or alcohol-related traffic collisions.

**C.** Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

**D.** Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present, and condone the activity, and in some circumstances provide the alcohol.

**E.** Even though giving or furnishing alcohol to an unrelated underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

**F.** A deterrent will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption of alcohol occurs.

**Subd. 2 Definitions.** The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**A. Alcohol** means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**B. Alcoholic Beverage** means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

**C. Event or Gathering** means any group of three or more persons who have assembled or gather together for a social occasion or other activity.

**D. Host or allow** means to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

**E. Parent** means any person having legal custody of a juvenile, such as a natural, adoptive parent, or stepparent, as a legal guardian; or as a person to whom legal custody has been given by order of the court.

**F. Person** means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. A person does not include any city, county, or state agency.

**G. Residence, Premises or Public or Private Property** means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

**H. Underage Person** means any individual under twenty-one years of age.

**Subd. 3 Prohibited Acts.**

**A.** It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does:

1. consume any alcohol or alcoholic beverage; or

2. possess any alcohol or alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

B. A person is criminally responsible for violating this Section if the person intentionally aids, advises, hires, counsels, or conspires with another to commit the prohibited act.

C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible for a violation of this Section.

**Subd. 4 Exceptions.** This section does not apply to the following persons or situations:

A. Conduct solely between an underage person and his or her parents while present in the parent's household.

B. Legally protected religious observances.

C. Licensed retail sellers of intoxicating liquor or 3.2 percent malt liquor licenses or bottle club permit holders who are regulated by Minnesota Statutes 340A.

D. A landlord, mortgagee, hotel or motel owner or operator who has not actually participated in knowingly furnishing alcohol for an event or gathering.

E. Medical procedures or treatment authorized by a physician.

F. Law enforcement activities supervised by a law enforcement agency.

G. When underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Source: Ordinance No. 372, 2nd Series  
Effective Date: 04-01-2010

(Sections 10.29 through 10.39, inclusive, reserved for future expansion.)

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