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CHAPTER 5. PUBLIC HEALTH AND SAFETY

SECTION 500 AIR POLLUTION

500.01 Definitions.

Subd. 1. Open Burning. Burning any material in a way where the resultant combustion products are emitted directly into the open atmosphere without passing through an adequate stack, duct or chimney.

Subd. 2. Recreational Fires. Wood-burning fireplaces and open fires used solely for outdoor food preparation, provided only wood, coal, or charcoal is burned.

Subd. 3. Burning Permit. A permit issued by the Council authorizing fires exempted from the general provisions of this Section and setting conditions for the permit, if approved by the City's fire marshal.

500.02 Open Burning Prohibited. Except as provided otherwise in this Section, open burning is prohibited within the City.

500.03 Subd. 1. Recreational Fires, which shall be defined as an outdoor fire burning materials other than rubbish where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and with a total fuel area of 3 feet or less in diameter and 2 feet less in height, for pleasure, religious, ceremonial, cooking, warmth or similar purposes, shall only be permitted under the following conditions:

1. A recreational fire shall have a total area of three (3) feet or less in diameter and three (3) or less in height.
2. Recreational fires shall be contained within a fire ring, pit, container or device designed for such use.
3. The area within a five (5) foot radius of the recreational fire shall be reasonably clear of all combustibles.
4. Recreational fires shall not be conducted within twenty-five (25) feet of a neighboring dwelling or garage.
5. The fire shall be under the immediate supervision of the resident or his/her authorized adult representative.
6. Buckets, shovels, garden hose or a fire extinguisher shall be readily available for use at recreational fires.
7. The prevailing wind at the time of the recreational fire shall be away from nearby residences and must be less than 15 mph.
8. No flammable or combustible liquids shall be used to kindle or rekindle a recreational fire.
9. Demolition debris, industrial solid waste, hazardous materials, oil, rubber, plastic, railroad ties, shingles, tarpaper, insulation, composition boards, sheetrock, wiring, painted materials or paint filters, garbage, chemically treated wood or other materials that would give off a toxic smoke irritant to nearby residents are prohibited material. Only clean material can be burned as part of a recreational fire.

10. The hours that recreational fires shall be extinguished are between 12:00 a.m. to 8:00 a.m.
11. Fires must be fully extinguished when unattended.
12. Recreational fires can be cancelled or terminated at the discretion of the Police Department if a complaint has been received from a nearby resident concerning the smoke, irritants or a medical condition that is aggravated by the residential fire.

Subd. 2. Any violations of the Recreational Fire conditions listed shall be a misdemeanor.

Subd. 3. This Ordinance shall be effective as of its date of publication.

500.04 Air Pollution Control Regulations. Pursuant to Minnesota Statutes, Section 471.62, the City adopts and incorporates by reference “Air Pollution Control Regulations and Ambient Air Quality Standards,” 3-7 and 9-15, inclusive, effective July 7, 1969, and 1-3 and 8, effective June 5, 1970, of the Minnesota Pollution Control Agency as adopted pursuant to Minnesota Statutes, Section 116.07.

500.05 Regulations on File. The Clerk will mark and keep on file in the Clerk’s office one copy of these regulations for use and examination by the public and will provide a copy of this Section and the regulations at cost to any person upon request.

SECTION 505 EMERGENCY MANAGEMENT

505.01 Policy And Purpose

Subd. 1. Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure or other major incidents, and in order to insure that preparations of the City will be adequate to deal with such disasters and generally, to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of this City, it is hereby found and declared to be necessary.

- a) To establish a City emergency management organization responsible for City planning and preparation for emergency government operations in time of disasters.
- b) To provide for the exercise of necessary powers during emergencies and disasters.
- c) To provide for the rendering of mutual aid between the City, and other political subdivisions with respect to the carrying out of emergency preparedness functions.
- d) To comply with the provisions of Minnesota Statutes, Chapter 12, known as the Minnesota Emergency Management Act of 1996.
- e) To participate as a member of the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee review and accept its emergency plan as the City's basic plan for responses to emergencies, disasters, major incidents, mutual aid and other projects consistent with this ordinance and Minnesota Statutes, Chapter 12.

505.02 Definitions.

Subd 1. "Emergency Management" means the preparation for and the carrying out of all emergency functions, to prevent, minimize and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps or other major incidents. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical mitigation, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out of the foregoing functions. Emergency management includes those activities sometimes referred as "Civil Defense" or "Emergency Preparedness" functions.

Subd. 2. "Disaster" means a situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or

is likely to result in major loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

Subd. 3. “Emergency” means an unforeseen combination of circumstances, which calls for immediate action to respond, or prevent from developing or occurring.

Subd. 4. “Emergency Management Forces” means the total personnel resources engaged in city-level emergency management functions in accordance with the provision of this resolution or any rule or order thereunder. This includes personnel from City department, authorized volunteers, and private organizations and agencies.

Subd. 5. “Emergency Management Organization” means the staff element responsible for coordinating city-level planning and preparation for disaster response. This organization provides City liaison and coordination with federal, state and local jurisdictions relative to disaster preparedness activities, major incidents, mutual aid, and other projects consistent with this ordinance and assures implementation of federal, state, county and other program requirements.

Subd. 6. “Major Incident” means any incident which exhausts local resources.

Subd. 7. “Emergency Management Mutual Aid” means any disaster or major incident which requires the dispatching of city personnel, equipment or other necessary resources within or without the city limits.

Subd. 8. “Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee”(L.M.R.E.M.P.P.R.C.) means a committee made up of the Lake Minnetonka area emergency management directors which develops, renews and establishes a basic emergency plan, and identifies and coordinates training for member communities and review local plans, exercises, major incidents and disaster responses which are consistent with this ordinance.

505.03 Establishment of an Emergency Management Organization

Subd. 1. There is hereby created with the City government an emergency management organization which shall be under the supervision and control of the Emergency Management Director, hereinafter called the “director”. The director shall be appointed by the Mayor. (*The L.M.R.E.M.P.P.R.C. recommends the Chief Law Enforcement Officer be appointed the director*). The director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization.

505.04 Powers and Duties of the Director

Subd. 1. The director shall represent the City at any regional or state conference for emergency management. The director may develop additional mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present such agreements to the City for its action. Such arrangements shall be consistent with the Emergency Plan. The director shall also be the City’s representative on the Lake

Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee.

Subd. 2. The director shall make assessments of personnel, businesses and industries, resources and facilities of the City as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency, major incident or disaster.

Subd. 3. The director shall prepare a comprehensive emergency plan for the emergency preparedness of the City and shall present such plan to the City for its approval. When the Council has approved the plan by resolution, it shall be the duty of all City agencies and all emergency preparedness forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the basic emergency management activities of the City to the end that they shall be consistent and fully integrated with the basic emergency plan of the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee, and Federal and State Governments.

Subd. 4. In accordance with the Emergency Plan, the director shall institute such training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the Emergency Plan when a disaster, major incident or mutual aid occurs.

Subd. 5. The director, during an emergency, major incident or mutual aid, shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the City to the maximum extent practicable. The officers and personnel of all such departments and agencies shall be, to the maximum extent practicable, cooperative with and extend such services and facilities to the Emergency Management organization. The head of each department or agency in cooperation with the director shall be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

Subd. 6. The director shall, in cooperation with the existing departments and agencies affected, assist in the organizing, recruiting and training of such emergency management personnel that may be required on a volunteer basis to carry out the emergency plans. To the extent that such emergency personnel are recruited to augment a regular department or agency for emergencies, they shall be assigned to such departments or agencies and shall be under the administration and control of said department or agency.

Subd. 7. The director shall carry out all orders, rules and regulations issued by the governing authority with reference to emergency management.

Subd. 8. The director shall prepare and submit such reports on emergency preparedness activities as may be requested by the governing authority.

505.05 Local Emergencies

Subd. 1. The Mayor or their legal successors may declare a local emergency, including a disaster, major incident or mutual aid response. It shall not be continued for a period in excess of three days except by or with the consent of the governing board of the political subdivision. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the clerk of the local records-keeping agency of the subdivision.

Subd. 2. A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable plans including fiscal expenditures which are consistent with this ordinance.

Subd. 3. No other jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions.

505.06 Emergency Regulations

Subd. 1. Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the Governor or the City Council, the Council may by resolution promulgate regulations, consistent with the applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulation, drills, or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

Subd. 2. Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the Office of the City Administrator, which copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the Administrator's Office shall be conspicuously posted at the front of the city hall or other headquarters of the City or at such other places in the affected area as the Council shall designate in the resolution. By like resolution, the Council may modify or rescind any such regulation.

Subd. 3. The City Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent such conflict exists.

Subd. 4. During a declared emergency, the director is, notwithstanding any statutory or charter provision on the contrary, empowered through its governing body acting within or without the corporate limits of the City, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The director may exercise such powers in the light of the exigencies of the disaster without

compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirements for budgets.

505.07 Emergency Management A Governmental Function

Subd. 1. All functions thereunder and all other activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, or the right of any such person to receive any benefits or compensation under any act of Congress.

505.08 Participation in Labor Dispute or Politics

Subd. 1. The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute. The director may express professional opinions on legislative or other legal regulations consistent with the areas found in Minnesota Statutes, Chapter 12.

505.09 Authorizing Dispatch and Use of City Equipment and Services by the Director in Emergency Situations (Mutual Aid)

Subd. 1. The City finds it desirable and necessary to authorize the director to dispatch City equipment and personnel to local communities who request aid to combat their emergency, disaster, or major incident consistent with this ordinance, and Section 4, Subdivision 5.

Subd. 2. The director shall evaluate the internal needs of the City, and dispatch appropriate available aid. The director shall immediately recall, order and terminate the use of any dispatched equipment and personnel when the need for their use no longer exists, or earlier, when it appears in the best interest of the City. Aid requested from outside the Lake Minnetonka Regional area, or extended local aid within the Lake Minnetonka Regional area, shall require mutual agreement between the director and the city Manager/Administrator or their designee.

Subd. 3. The director shall be fully authorized as an act of the City, and all provisions for compensation of personnel, rental of equipment, liability insurance coverage, workman's compensation insurance and all other safeguards and matters pertaining to the City, its equipment and personnel, shall apply in each case as if specifically authorized and directed at such time, whether or not the governing body or authority of the place in which the disaster, major incident, mutual aid, or other occurrence exists, has previously requested and provided for assistance and the use of equipment and personnel under a mutual protection agreement or other type protection agreement within the City.

SECTION 510 DOG REGULATIONS

510.01 Definitions. For purposes of this Section the following terms have the meanings given them in this Subsection.

Subd. 1. At Large. A dog is “at large” if it is off the premises of its owner and is not (a) controlled by a leash of six feet or less in length, (b) at heel beside a person having custody of the dog and obedient to that person’s commands, or (c) within a vehicle or similar confinement.

Subd. 2. Animal Control Officer: The person designated as such by the Council to perform the duties described by this Section, or such person’s authorized representative.

Subd. 3. Commercial Kennel: A place where more than two dogs over six months of age are kept for purposes of breeding, sale, or boarding.

Subd. 4. Dangerous Animal: Any animal that constitutes a physical threat to human beings or to other animals by reason of one or more attacks of such severity as to cause physical injury.

Subd. 5. Animal: Any wild or domestic species of the kingdom Animalia, except human beings.

Subd. 6. Dog: Any animal of the species *Canis familiaris*, including both males and females of the species.

Subd. 7. Playground and Ball Fields. A playground is a designated outdoor play area for children containing equipment such as swing sets and climbers. A ball field is a specifically groomed field used during practice or a sporting event, such as baseball, softball, football, or soccer.

510.02 Number of Dogs Kept. Not more than two dogs over the age of 6 months may be kept in or at any one residence within the City unless each of the dogs is licensed and the person keeping the dogs has a special permit from the City authorizing the keeping of more than two dogs. This permit may be issued by the Chief of Police subject to the following:

- (a) No permit will be issued for the purpose of maintaining a commercial kennel.
- (b) Permits will be issued on an annual basis, expiring December 31 following the date issued.

- (c) There must be compliance with all other provisions of this Code.
- (d) The Chief of Police may revoke the permit for failure to comply with any provision of this Code.
- (e) The permit may impose any restrictions or conditions deemed necessary to protect neighboring property from unreasonable noise, unsanitary conditions or other annoyance.
- (f) The Chief of Police may refuse to issue the permit if a neighboring property owner objects and if in the opinion of the Chief of Police the neighboring property cannot be adequately protected from unreasonable noise, unsanitary conditions or other annoyance.

510.03 Violations.

Subd. 1. Owner Violations. An owner is in violation of this Code if the owner's dog does any one or more of the following:

- (a) Is at large.
- (b) Has entered upon any public beach.
- (c) Has entered upon any playground or ball field of any park with the exception of Thorpe Park where dogs are allowed only on the walking path on leash.
- (d) Damages the property of anyone other than the owner.
- (e) Causes unsanitary conditions or annoying odors. Owners must clean up after their dogs.
- (f) Attacks other domestic animals.
- (g) Molests passersby, bicycles or vehicles.
- (h) Has been designated by the Chief of Police as a menace to the public health, safety, or welfare.

Subd. 2. Other Violations. It is unlawful for any person to:

- (a) Own or keep a rabid dog.
- (b) Own or keep a dangerous animal, unless confined within a building or other secure enclosure or muzzled and in the control of a competent person.

- (c) Interfere with the valid enforcement of this Section.
- (d) Fail to provide any animal in their care with humane care and treatment, including sufficient food and water, proper shelter and veterinary care when needed to prevent suffering.
- (e) Beat, cruelly treat, torment, or otherwise abuse any animal.
- (f) Intentionally kill or injure any dog or cat unless in defense of himself or another person or unless the animal has been determined to be rabid, but this Subsection will not apply to the humane destruction of diseased or injured animals by a veterinarian or as otherwise provided in this Code.
- (g) Abandon any animal within the City.
- (h) Permit any female dog in heat to be at large or to be unconfined such that it can come into contact with another dog, whether on or off the premises of the owner, except for breeding purposes within a building or other secure enclosure.
- (i) Operate a commercial kennel within the City.

Subd. 3. Unreasonably Disturb the Peace and Quiet. No person owning, operating, having charge of, or occupying, any building or premises shall keep or allow to be kept any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The phrase “unreasonably disturb the peace and quiet” shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including the Animal Control Officer or law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period.

510.04 Enforcement.

Subd. 1. Dog Pound and Animal Control Officer. The Council will designate a City dog pound where suitable arrangements are made for the keeping of dogs or other animals which may be taken into custody under this Section. The Council may appoint an Animal Control Officer who will have the authority of a police officer with respect to enforcement of Section 510. The Animal Control Officer will carry proper identification so as to be readily recognizable as such.

Subd. 2. Impounding. The Animal Control Officer is authorized to enter upon any private land within the City for the purpose of discharging this Section. The Animal Control Officer may enter a residential dwelling for enforcement purposes only with the consent of the occupant or with an appropriate court order or warrant. The Officer may seize and impound any dog found in this City without the required license tag and any

dog at large. Any dog impounded under this Section, except for the purpose of rabies observation, will be cared for in the dog pound until claimed by its owner as provided in 510.04, Subd.3, or for a period of not less than seven days.

Subd. 3. Redeeming of Impounded Dogs. Any dog impounded under this Section which is not being held for observation for suspected disease may be reclaimed by the owner within 7 days upon payment by the owner to the Clerk or other person authorized by the Council the sum specified in Section 405.05 plus all costs incurred by the City for boarding the dog. No dog which has been impounded will be released until the owner has complied with the licensing requirements of Section 400. All money collected under any of the terms of this Section will be deposited in the general fund of the City.

Subd. 4. Disposal of Unclaimed Animals. After being held in custody for at least seven days, a dog may be sold by the City at private sale. Alternatively, the Animal Control Officer or his authorized representative may dispose of the animal in a humane manner, or the dog may be used for scientific purposes pursuant to Minnesota Statutes, Section 35.71.

510.05 Care and Disposition of Injured or Dead Animals. Any injured or diseased animal found off the owner's premises will be returned to its owner, if identifiable, for care or disposal. If the owner is unknown or unavailable, the animal will be impounded as provided in Section 510.04, unless in the opinion of the Animal Control Officer or Police Officer it is more humane to destroy the animal. Any dead dog or cat found off the owner's premises will be returned to its owner, if identifiable. If the owner is unknown, the dead animal will be disposed of by the City.

510.06 Control of Rabies.

Subd. 1. Vaccination. No person may keep, harbor, or maintain care, custody, or control over any dog over six months of age unless the dog has been vaccinated within the past 12 months with a killed rabies vaccine or within the past 24 months with a live rabies vaccine and a certificate verifying such vaccination has been obtained.

Subd. 2. Impoundment of Rabies Suspects. Any dog or other animal displaying rabies symptoms, or which has bitten a person and caused abrasion or puncture of the skin, may be seized at any place and time and will be confined in the dog pound or under the supervision of a licensed veterinarian, at the expense of the owner, until found to be free from rabies. If the animal has been vaccinated against rabies as required by this Section, or as required by the Minnesota Livestock Sanitary Board, and the owner states in writing that the animal will be confined in a manner prescribed by the City Health Officer for a period of at least 10 days, the animal may remain on the owner's premises. A licensed veterinarian will conduct an examination of the animal at the end of the 10-day period, at the owner's expense. If no signs of rabies are observed by the veterinarian, the animal may be released from confinement.

Subd. 3. Killing of Rabies Suspects. If any dog or other animal appears to be diseased, vicious, dangerous, rabid, or has been exposed to rabies, and such dog or other animal

cannot be seized and impounded without serious risk, such dog or other animal may be killed by the Animal Control Officer or any police officer.

Subd. 4. Reporting. Any person who is aware of a dog or other animal that has bitten a person and caused abrasion or puncture of the skin will report the matter to the Deephaven Police Department. It is the duty of every physician and veterinarian to report to the Deephaven Police Department the names and addresses of persons who have been bitten by animals within the City, and suspected rabid animals within the City, together with such other information as will be helpful in the control of rabies.

Subd. 5. Destruction of Rabid Animals. For the purpose of this section, any bat, skunk, raccoon, fox, or other wild animal that bites any person or domestic animal will be presumed to be rabid and will be destroyed, with care taken to preserve the head, and will be delivered without delay to the most available facility for rabies testing.

510.07 State Law. The provisions of Minnesota Statutes, Sections 35.67 (Rabies; Board, Health Officers; Duties), 35.68 (Rabies; Proclamation; Publication), and 35.69 (Unmuzzled Dogs not Permitted at Large) are hereby made a part of this Code.

510.08 Penalties. Any person violating any provision of this Section, upon conviction, will be deemed guilty of a misdemeanor.

515 DANGEROUS DOGS

Section 515.01 Definitions. For the purpose of this Section, the following terms are defined as follows:

Subd. 1. Dangerous Dog. “Dangerous Dog” means any dog that has:

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

Subd. 2. Potentially Dangerous Dog. “Potentially Dangerous Dog” means any dog that:

- (1) when unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (2) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner’s property, in an apparent attitude of attack; or

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

Subd. 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.

Subd. 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.

Subd. 5. Substantial Bodily Harm. “Substantial Bodily Harm” means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Subd. 6. Great Bodily Harm. “Great Bodily Harm” means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Subd. 7. Animal Control Authority. “Animal Control Authority” means a person designated by the Council to perform the duties described by this Section, or such person’s designated representative.

Subd. 8. Provocation. “Provocation” means an act that an adult could reasonably expect may cause a dog to attack or bite.

Subd. 9. Impartial Hearing Officer. “Impartial Hearing Officer” shall be the Deeplaven Public Safety Committee.

515.02 Registration of Dangerous Dogs.

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

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

(1) 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,

- (2) a surety bond issued by a surety company authorized to conduct business in the State of Minnesota 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 the State of Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog;
- (3) the owner has paid an annual fee of not more than \$500, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this Section; and
- (4) the owner has had microchip identification implanted in the dangerous dog as required under Section 515.03.

Subd. 3. Warning Symbol. If the City issues a certificate of registration to the owner of a dangerous dog pursuant to Subd. 2, the City 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.

Subd. 4. Annual Notification. If the City issues a certificate of registration to the owner of a dangerous dog pursuant to Subd. 2 above, or if the City has determined a dog to be a potentially dangerous dog as defined in Section 515.01, Subd. 2, the City must provide annual notification to all property owners within 350 feet of the dog owner's property. Annual notification shall include the address of the owner and the reason for its designation as a dangerous dog or a potentially dangerous dog.

Subd. 5. Fee. The City 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.

Subd. 6. 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 reviews the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, and 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.

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

- (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

- (2) 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;
- (3) who was committing or attempting to commit a crime; or
- (4) employed as a law enforcement official that used dangerous dogs for police work.

Subd. 8. Tag. A dangerous dog registered under this Section 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.

Subd. 9. Contracted Services. The City may contract with another political subdivision or other person to provide the services required under this Section. Notwithstanding any contract entered into under this subdivision, all fees collected under Section 515.02, Subd. 5, shall be paid to the City and all certificates of registration must be issued in the name of the City of Deephaven.

515.03 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 the purchase of an implantation of the microchip must be borne by the dog's owner.

515.04 Dangerous Dog Requirements.

Subd. 1. Proper Enclosure or Muzzle. 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.

Subd. 2. Registration Renewal. 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 City, it must be registered as a dangerous dog in its new jurisdiction.

Subd. 3. Notification upon Death or Transfer. 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.

Subd. 4. Sterilization. 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.

Subd. 5. Renter. 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 into the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.

Subd. 6. Sale of a Dangerous Dog. 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.

515.05 Confiscation.

Subd. 1. Seizure. The animal control authority shall immediately seize any dangerous dog if:

- (1) after 14 days after the owner has notice that the dog is dangerous, the dog is not validly registered under Section 515.02;
- (2) 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 Section 515.02, Subd. 2;
- (3) the dog is not maintained in the proper enclosure;
- ~~(4) the dog is outside the proper enclosure and not under physical restraint of a responsible owner as required under Section 515.04, Subd. 1; or~~
- (5) the dog is not sterilized within 30 days, pursuant to Section 515.04, Subd. 4, or
- (6) 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.

Subd. 2. Reclaimed. A dangerous dog seized under Section 515.05, Subd. 1, 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 Sections 515.02 and 515.04 will be met. A dog not reclaimed under this subdivision within seven days may be disposed of as provided under 510.04, Subd. 4, and the owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.

Subd. 3. Subsequent Offenses; Seizure. If a person has been convicted of a misdemeanor for violating a provision of Section 515.02, 515.03, or 515.04, and the person is charged with a

subsequent violation relating to the same dog, the dog must be seized by the animal control authority. 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 510.04, Subd. 4.

515.06 Disposition of Seized Animals.

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

Subd. 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 may be posted within seven days of the seizure inclusive of the date of the seizure.

Subd. 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:

(a) 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;

(b) 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.

(c) 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 515.04, Subd. 1 and 3, and until such time as the hearing officer issues an opinion;

(d) 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 515.02, 515.03 and 515.04.

(e) a form to request a hearing under this subdivision; and

(f) 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.

Subd. 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 City.

515.07 Restrictions.

Subd. 1. Dog Ownership Prohibited. Except as provided in Subd. 3, no person may own a dog if the person has:

- (1) been convicted of a third or subsequent violation of Section 515.02, 515.03 or 515.04;
- (2) been convicted of a violation under Minnesota Statutes Section 609.205, clause (4);
- (3) been convicted of a gross misdemeanor under Minnesota Statutes Section 609.226, Subd. 1;
- (4) been convicted of a violation under Minnesota Statutes Section 609.226, Subd. 2; or
- (5) had a dog ordered destroyed under Section 515.09 and been convicted of one or more violations of Section 515.02, 515.03, 515.04 or Minnesota Statutes 609.226, Subd. 2.

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

Subd. 3. Dog Ownership Prohibition Review. Beginning three years after conviction under Subd. 1 that prohibits a person from owning a dog, and annually thereafter, the person may request that the City review the prohibition. The City 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 City deems appropriate. The City may rescind the prohibition entirely or rescind it with limitations. The City 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 City rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the City or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the City may permanently prohibit the person from owning a dog in this state.

515.08 Penalties.

Subd. 1. A person violating a provision of Section 515.02, 515.03 or 515.04 is guilty of a misdemeanor.

Subd. 2. 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.

Subd. 3. A person who is convicted of a second or subsequent violation of Subd. 1 or 2 is guilty of a gross misdemeanor.

Subd. 4. An owner who violates Section 515.07, Subd. 1, is guilty of a gross misdemeanor.

Subd. 5. Any household member who knowingly violates Section 515.07, Subd. 2, is guilty of a gross misdemeanor.

515.09 Destruction of Dog in Certain Circumstances.

Subd. 1. Circumstances. Notwithstanding Sections 515.01 to 515.08, a dog may be destroyed in a proper and humane manner by the City 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;
- (4) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

Subd. 2. Hearing. The City may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker.

SECTION 520 ANIMALS AND FOWL

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

Subd. 1. Animal. "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

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

B. Non-Domestic. "Non-Domestic animals" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

- (1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
- (2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
- (3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
- (4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
- (5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators, but excluding those members otherwise defined or commonly accepted as not inherently dangerous pets.
- (6) Any other animal, which is not explicitly listed above but which, can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

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

Subd. 2. Owner. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

520.02 Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such an animal at the time of adoption of this Code shall have thirty days in which to remove the animal from the City after which time the City may impound the animal as provided for in Section 510.04 Subd. 2. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, school exhibition, scientific research laboratory, or a licensed show or exhibition.

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

520.04 Animals Presenting a Danger to Health and Safety of City. If, in the reasonable belief of any person or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the person or officer may apprehend the animal and deliver it to the pound for confinement under Section 510.04 Subd. 2. If the animal is destroyed, a charge of one hundred dollars (\$100.00) to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper free of charge.

520.05 Violations and Penalties.

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

SECTION 525 TRAPPING

525.01 Purpose. The purpose of this section is to prevent potential injuries related to hunting and trapping. The Council has concluded that to allow hunting -and trapping in the City is contrary to the general public welfare.

525.02 Definitions. For the purpose of this section, the following words have the following meaning.

Subd. 1. Trap means any mechanical device or snare designed to capture an animal and which will kill, injure or harmfully hold an animal, including metal jaw-type devices, but excluding devices designed to kill rats, mice, gophers or moles and excluding cage-type traps.

Subd. 2. Trapping means using or setting a trap.

Subd. 3. Hunting means the act of seeking to kill or otherwise take or pursue game.

525.03. Hunting and Trapping Prohibited. Hunting and trapping are prohibited anywhere in the City, except as provided in Section 520.04.

525.04. Exceptions. Section 520.03 shall not apply to the following:

Subd. 1. Use of a trap on one's private property to prevent an unsafe condition or waste or destruction of such property when in compliance with state law.

Subd. 2. Trapping of muskrats in public waters when authorized by state law.

Subd. 3. Representatives of the City, County or State who may in the course of their duties be required to use a trap or kill animals for humane or other authorized purpose.

Subd. 4. Scientists intended to identify animals, wildlife, or birds and then return them to another natural environment.

SECTION 530 REFUSE COLLECTION, STORAGE AND DISPOSAL

530.01 Definitions. For the purposes of this Section, the following words have the following meanings:

Subd. 1. Recyclables. Materials which may be recycled or reused through recycling processes, including newsprint, corrugated cardboard, unsorted glass food and beverage containers, and unsorted aluminum, steel, bimetal and "tin" food and beverage containers, and any other materials designated as recyclables by Council resolution.

Subd. 2. Refuse. Solid waste products, other than recyclables, composed wholly or partly of such materials as garbage, trash, sweepings, cleanings, rubbish, litter, organic wastes, tree or shrub trimmings, demolition, alteration or construction waste, and materials such as brick, plaster or wood or metal.

530.02. Collection Contract. The City will enter into a contract or contracts for the collection of refuse and recyclables from all residential properties in the City.

Subd. 1. Duration. A contract will be for a period of one or more years and may contain provisions for extension. Any such extension must be in writing and must be signed by the City and the contractor. A contract may be terminated before expiration as may be provided in the contract.

Subd. 2. Insurance. The Council may require liability or indemnity insurance in such amounts as the Council may determine necessary and appropriate.

Subd. 3. Collection Hours. Refuse may not be collected by the City's contractor or by any other person between the hours of 9:00 p.m. and 7:00 a.m.

530.03. Collection Charges.

Subd. 1. Basis. Property owners will be charged for refuse and recyclable collection according to the fee schedule set forth in Section 405.05.

Subd. 2. Basic Charges. Charges will be based upon cost for:

- (a) Collection of one refuse container no larger than 32 gallons each.
- (b) Service once each week.
- (c) Refuse and recyclable containers not more than 30 feet from a driveway upon which an auxiliary vehicle is permitted under the contract with the refuse collector.
- (d) Refuse and recyclable containers located outside the occupied place of residence or business.

Subd. 3. Extra Charges. If collection exceeds the collection described in Subdivision 2 above, or containers are more than 30 feet from the end of the driveway, the owner will be charged additional amounts as set forth in Section 405.05.

Subd. 4. Collection from Inside Premises. If collection is made from inside the occupied space of residence or business, the owner, in addition to paying the normal charges, must make arrangements with the refuse collector under contract with the City for such inside pick-ups and for paying additional charges, if any, directly to the refuse collector.

Subd. 5. 525.03. Reduced Charges. If a person occupies a residence or place of business for only part of a calendar year, the person may request a reduction in the charge if service is discontinued for at least 30 days, but in no case will the charges be reduced by more than 6 months in any calendar year. Requests for reduction must be in writing, addressed to the Clerk, and must give the property identification number as taken from the real estate tax statement or County tax list and the dates for discontinuing and starting collection services.

Subd. 6. Delinquent Bills. If charges for refuse and recycling collection are not paid within 30 days of the issuance of a statement, a delinquency charge of \$5.00 per quarter will be added. All unpaid charges plus the delinquency charges which remain unpaid on September 15, together with an assessment fee of \$20 for any unpaid refuse and recycling collection charges, may be assessed by the City against the property served and will become a lien upon the property when assessed. The Clerk will prepare an assessment roll each year which provides for assessment of the delinquent refuse and recycling collection charges plus the additional charges against the respective properties served. The assessment roll will be submitted by the Clerk to the Council for adoption on or before October 10 of each year.

530.04 Storage and Disposal.

Subd. 1. Containers Required. The owner or occupant of any premises, and any other person having refuse and recyclables, will provide and keep on such premises sufficient containers for storage of refuse and recyclables accumulated on the premises between disposal and collection. All refuse or recyclables of any premises must be stored in the containers required.

Subd. 2. Container Requirements. Each refuse and recyclable container must be watertight, impervious to insects and rodents, fireproof, and of a size not to exceed 32 gallons. The container may not weigh more than 50 pounds when full, except that all commercial or business establishments having refuse volume in excess of 2 cubic yards per week must provide bulk or box-type refuse storage containers as approved by the Council. Non-putrescible solid wastes, such as leaves, trimmings from shrubs, grass clippings, shavings, excelsior and other trash of similar volume and weight, may be stored in sealed plastic bag containers as accumulated between collections. No plastic bag allowable for the storage of refuse may be more than 50 pounds in weight and of a dimension which prohibits handling by one person.

Subd. 3. Container Location. Refuse and recyclable containers must be kept accessible to the collector at all reasonable times, or on the day designated for collection. The containers may not unreasonably interfere with the use of adjoining property, and may not be placed as to permit the entry or harboring of animals or insects or so maintained as to be readily tipped over. Containers must be maintained in a reasonably clean condition at all times.

Subd. 4. Garbage Wrapping. Except during the months from May through September of each year, all garbage must be wrapped before it is placed in the container in some suitable material which will prevent it from freezing to the refuse container.

SECTION 535 NUISANCES

535.01 Public Nuisance Defined. Whoever by his act or failure to perform a legal duty intentionally does any one or more of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (a) Maintains or permits a condition which unreasonably annoys, disrupts, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public.
- (b) Is guilty of any other act or omission declared by law or this Code to be a public nuisance and for which no sentence or subsection is specifically provided.

535.02 Public Nuisances Affecting Health. The following are declared to be nuisances affecting health:

- (a) Exposed accumulation of decayed or unwholesome food, vegetable matter, meat, fish, excrement, manure, refuse, debris or other offensive substance.
- (b) All diseased animals running at large.
- (c) All ponds or pools of stagnant water.
- (d) Carcasses of animals not buried or destroyed within 24 hours after death.
- (e) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.
- (f) All noxious weeds and other rank growths of vegetation upon public or private property.
- (g) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.
- (h) All public exposure of persons having a contagious disease.
- (i) Any offensive trade or business as defined by statute not operating under local license.

535.03 Public Nuisances Affecting Morals and Decency. The following are declared to be nuisances affecting public morals and decency:

- (a) Drinking of alcoholic beverages or drunkenness on public streets, parking lots or parks.
- (b) Betting, bookmaking, and all apparatus used in such occupations.
- (c) All houses kept for the purpose of prostitution.

- (d) All places where intoxicating liquor is manufactured, kept or disposed of in violation of law.
- (e) Public exposure by a person of his or her unclothed genital organs, or public exposure by a woman of her unclothed breasts.

535.04 Public Nuisances Affecting Peace and Safety. The following are declared to be nuisances affecting public peace and safety:

- (a) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has stopped falling.
- (b) Use of any railroad bridge or public or private street or easement for fishing.
- (c) All wires and limbs of trees or branches which are so close to the surface of a sidewalk or street as to constitute a danger or obstruction to pedestrians or vehicles.
- (d) All unnecessary noises and annoying vibrations.
- (e) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law.
- (f) Radio aerials or television antennae erected or maintained in a dangerous manner.
- (g) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk.
- (h) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as required by this Code.
- (i) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (j) Any barbed wire fence.
- (k) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (l) Waste water cast upon or permitted to flow upon streets or other public property.
- (m) Accumulations of discarded or disused machinery, household appliances, automobile bodies, furniture, toys, plastic bags, cardboard boxes, wood piles, brush piles, branches or other material or debris, in a manner conducive to the

harboring of rats, mice, snakes, or vermin, or other rank growth of vegetation among the items accumulated, or in a manner creating fire, health or safety hazards from such accumulation, or in a manner adversely affecting the peaceful enjoyment of neighboring properties.

- (n) The leaving of any unused ice box, refrigerator, or other box or appliance, with a door on it which will effectively exclude air when shut, in any public place or on any private property.
- (o) Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard. Any construction in or adjacent to any street or sidewalk must be secured by a metal or wooden fence at least 4–1/2 feet in height with posts no more than 6 feet apart, and must be illuminated with red or yellow lights from sunset to sunrise.
- (p) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.
- (q) The placing, throwing or runoff on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, dirt, gravel, snow, leaves or other substance which may injure any person or animal, damage any pneumatic tire when passing over such substance, or adversely impact the walking or driving surface to pedestrians or vehicles.
- (r) The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
- (s) Any gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of persons residing in any residential area. No person may visit or remain in or about a residential dwelling wherein such a party or gathering is taking place, except persons who reside at that dwelling or have gone there for the sole purpose of abating the disturbance.
- (t) The parking, storing, or keeping on any public or private property any motorized vehicle which (1) has a broken, missing or defective part that is necessary for normal operation thereof; (2) is stored on blocks, jacks or other supports; or (3) does not display a license or displays a license that is 60 days or more past its required renewal date, excluding those vehicles kept within a fully enclosed garage or other building and impounded vehicles held by the City.
- (u) All other conditions or things which are likely to cause injury to the person or property of anyone.
- (v) Use or possession of fireworks by any person under 18 years of age.

- (w) Aiding, abetting, facilitating or causing the escape of a person by force or fraud from the custody of a police officer.
- (x) Removal, damage or other interference with any barricade erected to protect any excavation, grading, paving, construction, or other work.
- (y) Construction noise at any time other than the hours of 7:00 a.m. to 9:30 p.m. on weekdays and 8:00 a.m. to 8:00 p.m. on weekends and Holidays.
- (z) The length of grasses commonly used in lawn areas including blue grass, fescue or rye grass blends of similar grasses shall not exceed eight (8) inches in length, excluding grasses on steep slopes or adjoining ponds, wetlands and lakes.
- (aa) Maintenance equipment noise at any time other than the hours of 7:00 a.m. to 9:30 p.m. on weekdays and 8:00 a.m. to 8:00 p.m. on weekends and Holidays. Maintenance equipment shall include, but not be limited to lawn movers, chainsaws, leaf blowers and other similar types of equipment. However, equipment used during the removal of snow and generators used during power outages or other emergencies shall not be considered as maintenance equipment under this subsection.

535.05 Duties of City Officers. The Chief of Police will enforce the provisions of this Section relating to nuisances affecting public safety. The Police Department will enforce provisions relating to other nuisances and will assist the other designated officer in the enforcement of provisions relating to nuisances affecting public safety. Such officers will have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisance.

535.06 Abatement. Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer may issue a citation for the violation and/or may give written notice to the owner or occupant of the premises of that fact and order that the nuisance be terminated and abated. The notice may be served in person or by mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. If such order is given, it will specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer will report that fact to the Council. The Council may then, after notice to the owner or occupant and an opportunity to be heard, provide for abatement of the nuisance by the City. The notice will be served in the same manner as notice by the enforcing officer is served and will be given at least 10 days before the date stated in the notice when the Council will consider the matter. If notice is given by posting, at least 30 days will elapse between the day of posting and the hearing. The giving of such notice and the abatement of the nuisance by the owner will have no effect on the City's ability to prosecute the owner or occupant of the property for violation of this ordinance.

535.07 Recovery of Cost.

Subd. 1. Personal liability. The owner of premises on which a nuisance has been abated by the City is personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the Clerk or other official designated by the Council will prepare a bill for the cost and mail it to the owner. The bill will be immediately due and payable at the office of the Clerk.

Subd. 2. Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the Clerk will, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, Section 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

SECTION 540 UNIFORM FIRE CODE

540.01 Adoption of Uniform Fire Code – The provisions of the 1991 Minnesota Uniform Fire Code established under and pursuant to Minnesota Statutes, Section 299F.011, specifically including and adopting those sections of the rules and regulations of the Fire Marshal Division of the Department of Public Safety denominated as Chapter 7510.3290 – 7510.3480, are hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion.

540.02 Establishment and Duties of Bureau of Fire Prevention

Subd. 1. Enforcement. The Minnesota Uniform Fire Code shall be enforced by the Bureau of Fire Prevention in the Fire Department of the City of Excelsior, which is under contract to the City of Deephaven and which shall be operated under the supervision of the Chief of the Fire Department.

Subd. 2. Fire Marshal. The Fire Marshal in charge of the Bureau of Fire Prevention shall be appointed by the City Manager of Excelsior on the basis of examination to determine his/her qualifications.

540.03 Definitions. For purposes of this Section, the following words have the following meanings:

Subd. 1. Municipality. The word “municipality” in the Minnesota Uniform Fire Code will mean the City of Deephaven, Minnesota.

Subd. 2. Fire Marshal. The term “Chief of the Bureau of Fire Prevention” as used in the Uniform Fire Code will mean the City’s Fire Marshal.

540.04 Storage of Liquefied Petroleum Gas and Flammable or Combustible Liquids. Bulk storage of liquefied petroleum gas of over 1,000 gallons water capacity and bulk storage of flammable or combustible liquids of over 1,000 gallons capacity in above-ground tanks is prohibited in the City.

540.05 Explosives and Blasting Agents. Storage of explosives and blasting agents is prohibited in the City.

540.06 Appeals. If the Fire Marshal disapproves an application or refuses to grant a permit, or if it is claimed that the provisions of the Uniform Fire Code do not apply or were incorrectly interpreted, the party affected may appeal to the City Council within 30 days from the date of the decision appealed.

540.07 Fire Lane Parking. Parking is prohibited on public and private fire lanes.

SECTION 545 FALSE ALARMS

545.01 General Definitions. For the purposes of this section, certain words and terms shall have the following meanings:

- (a) Alarm User. This means the person, firm, partnership, association, corporation, a company or organization of any kind in control of any building, structure, or facility where an alarm system is maintained.
- (b) Alarm System. This means and includes any alarm installation designed to be used for the prevention or detection of burglary, robbery, or a non-existent medical condition on a premises which contains the alarm installation. Auto alarm devices shall not be considered an alarm system under the terms of this ordinance. An alarm which alerts an alarm user on the premises and requires the user to make a personal inspection of the premises and then a personal phone call to the Police or Fire Department (such as a smoke and CO detector or automobile alarm) is not considered an alarm system under the terms of this ordinance.
- (c) False Alarm. “False Alarm” means an alarm signal eliciting a response by Police personnel when a situation requiring a response does not, in fact, exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence or deliberate act of the owner or lessee of the alarm system or of his/her employees or agent. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions or nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

545.02 False Alarm Fees. If an alarm user has been notified of an alarm system which reports three false alarms to the City in a single calendar year, the alarm user will be charged a user fee of \$50.00 per false alarm in excess of three false alarms in a calendar year; \$100.00 per false alarm in excess of six false alarms in a calendar year, and \$150.00 per false alarm in excess of ten false alarms per calendar year.

545.03 Appeal of Fees. Any alarm user charged the user fee under Section 540.02 result of false alarms may make a written appeal to the Chief of Police within 10 days of notice by the City of the false alarm fee. A decision by the Chief of Police may be appealed to the City Council, who will have authority to make a determination as to whether the appellant is to be charged with the false alarm.

545.04 Notice of False Alarm. Upon receipt of the first false alarm report at an address, the Police Department shall by mail attempt to notify the alarm user of the provisions of this ordinance. Upon receipt of the fourth and all subsequent false alarm reports at the address, the City Clerk shall notify the alarm user that an alarm user fee is due.

545.05 Payment of Fees. Payment of user fees provided for under this Section 540.02 must be paid to the City Treasurer within 30 days of the date of notice by the City to the alarm user.

Failure to pay the fee within 30 days notice will cause the alarm user to be charged an additional service fee equal to 10% of the user fee.

545.06 Collection with Taxes. All delinquent charges for user's fees shall be a lien upon the premises. All charges which are on September 30 of each year more than 45 days past due, shall be certified by the City Clerk to the County Auditor to be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, collected by the County and paid to the City.

545.07 Injunctive Relief. In the event of a violation or a threat of violation of this ordinance, the City may institute appropriate action or proceeding, including requesting injunctive relief to prevent, restrain, correct, or abate such violation or threatened violation.

545.08 Civil Action. In addition to all other legal remedies, if a person fails to comply with the provisions of this ordinance, the City may recover costs, damages, or alarm user fees in a civil action in any court of competent jurisdiction.

SECTION 550 - FIRE ALARM SYSTEMS

550.01. Statement of Purpose. The City deems it necessary to provide for the regulations of fire alarm systems which are designed to signal the presence of a hazard requiring urgent attention to which public safety personnel are expected to respond in order to protect the public health, safety, and welfare.

The City Council finds that the regulation of alarms is necessary in order to reduce the increasing frequency of false fire alarms in the City. The great number of and increasing frequency of these false alarms requires intensive, time-consuming efforts by the Excelsior Fire Department and thereby distracts from and reduces the level of services available to the rest of the community. This diminishes the ability of the City to promote the general health, welfare, and safety of the community. As the City must provide numerous fire safety services to all segments of the community, without an undue consideration of certain public services that would work to the detriment of members of the general public, it is hereby decided that the fire alarm systems shall be regulated through the permit process described below.

550.02 Definitions. As used herein, unless otherwise indicated, the following terms are defined as follows:

Subd. 1. Alarm System. An assembly of equipment and devices (or a single device such as a solid state unit) arranged to signal the presence of a hazard. For the purposes of this Chapter, the alarm, when triggered, must be directed connected to a central monitoring agency which then notifies the Fire Department of an emergency to which public safety personnel must respond, or may emit an audible signal which will require urgent attention and to which fire personnel are expected to respond.

Subd. 2 Alarm User. The person, firm, partnership, association, corporation, company, or organization of any kind on whose premises an alarm system is maintained. "Alarm user" shall include persons occupying dwelling units for residential purposes.

Subd. 3. False Alarms. The activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employees or agents. It does not include activation of the alarm by utility company power outages (except as set forth below) or by climatic conditions such as tornadoes, lighting, earthquakes, other violent conditions of nature, or any other conditions which are clearly beyond the control of the alarm manufacturer, installer, or owner.

Subd. 4. Person. Any individual, partnership, corporation, association, cooperative, or other entity.

550.03 Permits.

Subd. 1. Permit Required. Every alarm user who, during the course of a twelve (12) month period, incurs more than one false fire alarm shall be required to obtain an alarm

user's permit. The City Council shall set the permit fee by Ordinance 405, which may be modified from time to time.

Subd. 2. Review of Permit. The Fire Chief shall review the issuance of all alarm permits.

Subd. 3. Process for Issuance of Permits. Upon receipt and determination of the second false fire alarm report at an address within a twelve (12) month period, the Fire Chief, after review, shall notify the City Clerk, who shall then assess the alarm user for an alarm user's permit. The assessment invoice shall be sent by certified mail or delivered and accepted personally. The alarm user must submit the required permit fee to the City Clerk within ten (10) working days after receipt of the assessment invoice in order to continue to use his/her alarm system. Any subsequent false fire alarms at that address within a period of twelve (12) months from the date of issuance of the permit shall automatically revoke the permit and the process must then be repeated and a new permit obtained.

Subd. 4. Duration of Permit. All permits, unless otherwise revoked, will expire twelve (12) months from date of issue.

550.04 False Alarms, Reports Required.

Subd. 1. False Alarm Reports. The Fire Chief may, at his discretion, require a false alarm report to be filed by the alarm user with the Fire Department within a time period to be specified by the Fire Chief. If the Fire Chief determines that a false alarm has occurred at an address, the alarm user at that address may submit a written report to the Fire Chief to explain the cause of the alarm activation. If the Fire Chief determines that the alarm was caused by conditions beyond the control of the alarm user, the alarm will not be counted as a false alarm at that address.

Subd. 2. False Alarms Excused. False alarms will be excused if they are the result of an effort or order to upgrade, install, test, or maintain an alarm system and if the Fire Department is given notice in advance of said upgrade, installation, test, and maintenance.

550.05 Prohibited Conditions, Systems Utilizing Taped or Prerecorded Messages. No person shall install, monitor, or use and possess an operative alarm which utilizes taped or pre-recorded messages which deliver a telephone alarm message to the Fire Department.

550.06 Suspension or Revocation of Permit.

Subd. 1. Basis for Revocation or Suspension. In addition to the automatic revocation process described in Section 496:15 of this Chapter, the Fire Department may suspend or revoke any alarm user's permit issued pursuant to this Chapter if the Fire Department finds that any of the following occur:

1. That any provision or condition of this Chapter has been violated by an alarm user or his agents;
2. That an alarm system has actuated an excessive number of false alarms (i.e., in excess of four in a 12-month period);
3. That the alarm user has knowingly made false statements in or regarding his application for an alarm user's permit;
4. That the alarm user has failed to correct or remove, within a reasonable period, violations of this Chapter after receipt of notice to do so;
5. That the continued effectiveness of the alarm user permit constitutes a substantial threat to the public peace, health, safety, or welfare.

Subd. 2. Investigation. All alleged violations defined above shall be investigated by the Fire Chief. The alarm user shall be given notice of the proposed revocation or suspension and be provided an opportunity to informally present evidence to the Fire Chief prior to the final decision on revocation or suspension. Anyone aggrieved by the decision of the Fire Chief may appeal that decision to the City Council.

550.07 Criminal Penalties.

Subd. 1. Any alarm user who continues to use an alarm system after receiving notice of revocation or suspension by the Fire Department shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than seven hundred dollars (\$700.00) and by imprisonment not to exceed ninety (90) days.

Subd. 2. Any person required by this Chapter to obtain an alarm user's permit who knowingly fails to do so shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than seven hundred dollars (\$700.00) and by imprisonment not to exceed ninety (90) days.