

TITLE 5
POLICE REGULATIONS

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CHAPTER 1

ANIMAL CONTROL

ARTICLE A. DOGS AND CATS

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5-1A-1: **DEFINITIONS:**

ANIMAL SHELTER: Any premises designated by the City Council for the purpose of impounding and caring for the dogs and cats held under the authority of this article.

BITING DOG: Any dog which, without being provoked, has bitten, scratched, or caused other injury or threatens such injury to a person or another domestic animal, under circumstances where, at the time of the threat of attack, the person or domestic animal was lawfully on the premises upon which the victim was legally entitled to be, or the victim was on the premises owned or controlled by the owner of the dog, at the express or implied invitation of the owner.

DANGEROUS DOG/CAT: Any dog/cat that has:

- A. Without provocation, inflicted substantial bodily harm on a human being on public or private property.
- B. Has killed a domestic animal without provocation while off the owner's property.

C. Has 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.

DOG ENCLOSURE: An enclosure (of sufficient size) constructed for shutting in or enclosing dogs. The enclosure shall be surrounded and covered with fencing material of at least six feet (6') in height and of sufficient gauge to ensure the dog's confinement. A cement pad of four inches (4") in thickness shall be present that covers the inside and perimeter of the enclosure.

FREQUENT BARKING: Barking intermittently for 30 minutes or more.

HABITUAL BARKING: Barking for repeated intervals of at least five minutes with less than one minute of interruption.

**KENNEL;
COMMERCIAL¹:** Any place where a person accepts dogs from the general public and where such animals are kept for the purpose of selling, boarding, breeding, training, or grooming, except for a veterinary clinic. There shall be a fenced yard or dog enclosures present to prevent the running at large or escape of dogs confined therein ².

KENNEL; PRIVATE ³ : A place where more than three (3) dogs over six (6) months of age are kept for private enjoyment and not for monetary gain, provided such animals are owned by the owner or the lessee of the premises on which they are kept. There shall be a fenced yard or dog enclosures present to prevent the running at large or escape of dogs confined therein⁴.

NUISANCE: It shall be considered a nuisance for any animal:

¹ See also section 12-2-2 of this code, definition of "dog kennel, commercial".

² See title 12, chapter 7 of this code for fence requirements and restrictions.

³ See also section 12-2-2 of this code, definition of "dog kennel, private"

⁴ See title 12, chapter 7 of this code for fence requirements and restrictions.

A. To bite, attack or endanger the safety of humans or domestic animals;

B. To run at large; to habitually or frequently bark or cry;

C. To frequent school grounds, parks, nature preserves, open spaces, or public beaches while unrestrained;

D. To chase vehicles; to molest or annoy any person if such person is not on the property of the owner or custodian of the animal;

E. To molest, defile, destroy any property, public or private; or

F. To leave excrement on any property, public or private.

OFFICER: Any law enforcement officer of the city and persons designated by the city to assist in the enforcement of this article.

OWNER: Any person, firm, cooperation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody or control of an animal.

POTENTIALLY
DANGEROUS DOG/CAT: Any dog/cat that:

A. When unprovoked, inflicts bite(s) 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.

C. Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic

animals.

PROPER ENCLOSURE: 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.

PROVOCATION: An act that an adult could reasonably expect may cause a dog to attack or bite.

RESTRAINT: A dog or cat shall be deemed to be under restraint if it is on the premises of its owner or if accompanied by an individual and under that individual's effective control.

SUBSTANTIAL BODILY HARM: Bodily injury that involves a temporary but substantial or temporary disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or that causes a fracture of any bodily member.

UNPROVOKED: The condition in which an animal is not purposely excited, stimulated, agitated, or disturbed.

5-1A-2: DOG LICENSING REQUIREMENTS; EXEMPTIONS:

A. License Required: No person shall own, keep, harbor or have custody of any dog over six (6) months of age without first obtaining a license from the City Clerk. No license shall be issued to any person other than the owner except upon the written request of owner.

B. Application For License: Applications for license shall be made on forms prescribed by the City Clerk, which form shall set forth the following:

1. The name, address and telephone number of the owner;

2. The name and address of the person making the application, if other than the owner; and

3. The breed, sex, and age of the dog for which a license is sought.
- C. Rabies Vaccination Required: Every application for a license shall be accompanied by a certificate from a qualified veterinarian showing that the dog to be licensed has been given a vaccination against rabies to cover the licensing period. No license shall be granted for a dog that has not been vaccinated against rabies for a time sufficient to cover the licensing period. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated.
- D. License Fee; Expiration Of License: The license fee shall be in such amount as set forth by ordinance and shall expire in accordance with the date shown on the license receipt.
- E. Nonresidents Exempt: This section shall not apply to nonresidents of the city; provided, that dogs of such owners shall not be kept in the city longer than thirty (30) days without a license and shall be kept under restraint.
- F. Revoked Licenses: Any person who owns, keeps or harbors or is in physical custody of any dog within the city, for any period of time, which dog has had its license revoked, shall be in violation of this article.

5-1A-3: **NUMBER OF DOGS AND CATS RESTRICTED:** No person, firm or corporation shall harbor more than three (3) dogs over the age of six (6) months in any one-family residence unit or place of business except pursuant to Section 5-1A-13 of this article, and no person, firm or corporation shall harbor more than three (3) cats over the age of six (6) months in any one-family residence unit or place of business that is located on a parcel of land two and one-half (2.5) acres or less.

5-1A-4: **DOG ENCLOSURES:**

- A. Purpose: It is the purpose of this section to abate existing nuisances and to prevent nuisances created by site, odor, noise and sanitation due to construction and placement of dog enclosures on private property.
- B. Screening: Dog enclosures must be screened from view of adjacent property.
- C. Location: A dog enclosure shall not be placed closer than forty feet (40') from an adjacent residential dwelling or principal structure and at least ten feet (10') from side and rear lot lines. No dog enclosure shall be placed in the front yard in all residential districts; and in the R-4 single-family urban district, no dog enclosure shall be placed in the side yard.
- D. Sanitation Requirements: No person shall permit feces, urine, or food

scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odor.

- E. Applicability And Effect Of Provisions: This section shall be applicable to all dog enclosures constructed after July 18, 1995. Any preexisting dog enclosure for which the city receives a complaint that it is not kept in a clean and sanitary condition or is a nuisance to an adjacent property owner shall be required to comply with this section by a notice of compliance being given by the City Administrator or his/her duly authorized agent. Failure to comply with such notice within thirty (30) days of issuance shall be a violation of this article.

5-1A-5: **DOG KENNELS:**

A. Licensing Requirements:

1. Licenses Required: No person, firm or corporation shall operate or maintain a commercial or private kennel without first securing a kennel license therefore from the City Council and meeting the criteria as set forth in this article and/or the zoning ordinance ¹ .

2. Applications For Licenses; Fees:

a. Application for a kennel license shall be made on forms provided by the city. Such application shall contain the following information:

(1) Location, on premises, of the kennel.

(2) Location of structures for housing the dogs. If the dogs are to be kept primarily within the home or other building of the residence of the applicant or of any other person, the application shall so state.

(3) The maximum number of dogs to be kept on the premises.

(4) The location, size, and height of dog enclosures, if present.

(5) The location and type of fencing (if present); fencing to be of such quality, design and height so that it will contain the dogs ² .

(6) Method to be used in keeping the premises in a sanitary condition.

(7) Method to be used in keeping dogs quiet.

¹ See section 12-15-6 of this code.

² See title 12, chapter 7 of this code for fence regulations and restrictions.

(8) An agreement by the applicant that the premises may be inspected by the city at all reasonable times.

b. The City Council may impose additional requirements to be stated in the application or more restrictive requirements than those listed in Subsection A2a of this section to protect the health, safety, general welfare and morals of the general public.

c. Application for such license shall be made to the City Clerk and shall be accompanied by a specified license fee that shall be as set in Subsection 1-7-3A of this code.

3. Approval Or Denial Of Licenses: The City Clerk shall refer private kennel license applications to the City Council and commercial kennel license applications to the Planning and Zoning Commission as set forth in the zoning ordinance. In both cases, the City Council may grant or deny the license.

4. Renewal Of Licenses: All kennel licenses shall be renewed annually. Application for such license renewal shall be made to the City Clerk and shall be accompanied by a specified license fee, which annual license fee shall be in such amount as set forth by ordinance. The City Council shall review and approve all license renewal applications, provided no revocation of the license is made as specified in Subsection A6 of this section.

5. Requirements For Private/Commercial Kennel Licenses: A minimum of two and one-half (2.5) acres in a residentially zoned district is required for a private/commercial dog kennel license (provided that the adjacent lot sizes are predominately similar in size). A private/commercial dog kennel license shall not be issued unless a Conditional Use Permit has been granted by the City Council in accordance with the zoning ordinance.

6. Revocation Of Licenses: Any kennel license may be revoked by the City Council by reason of any violation of this article or by reason of any other health or nuisance ordinance, order, law or regulation.

a. Private Kennel License: Before revoking a private kennel license, the licensee shall be given notice of the meeting at which such revocation is to be considered. Notice of the meeting shall be given in writing five (5) days prior to said meeting. The licensee, if present at said meeting, shall be given the opportunity to be heard.

b. Commercial Kennel License: A commercial kennel license may be revoked by the City Council by the procedure established and

defined in the zoning ordinance.

- B. Kennel Regulations: Kennels shall be kept in a clean and healthful condition at all times, and shall be open to inspection by any health officer, sanitarian, animal control officer, or the person charged with the enforcement of this article, or any health or sanitary regulation of the city, at all reasonable times.

5-1A-6: **NUISANCE DOGS AND CATS**

- A. Obligation to Prevent Nuisances: It shall be the obligation and responsibility of the owner or custodian of any animal in the city, whether permanently or temporarily therein, to prevent such animal from committing any act which constitutes a nuisance. Failure on the part of the owner or custodian to prevent his or her animals from committing an act of nuisance shall be subject to the penalty herein provided.
- B. Control of Animal: No restriction imposed by Section 5-1A-6 of this article shall prohibit the appearance of any dog or cat upon streets or public property when such dog or cat is on a leash and accompanied by an individual or accompanied by and under the control and direction of an individual so as to be effectively restrained by command as by leash. Dogs or cats that are in city parks, open space areas, nature preserves, or are on or directly adjacent to athletic fields must be leashed. Owners are required to clean up and dispose of their pet's excrement.
- C. Muzzling Proclamation: Whenever the prevalence of rabies renders such action necessary to protect the public health and safety, the Mayor shall issue a proclamation ordering every person owning or keeping a dog to muzzle it securely so that it cannot bite. No person shall violate such proclamation, and any unmuzzled dog unrestrained during the time fixed in the proclamation shall be subject to impoundment as heretofore provided, shall be considered a nuisance, and the owner of such dog shall be subject to the penalty hereinafter provided.
- D. Nuisances Prohibited: No dog or cat shall be permitted to be a nuisance within the limits of the city. Any person, who owns, keeps, harbors or is in physical control of a dog or cat that is a nuisance shall be in violation of this article.
- E. Abatement of Nuisance Conditions:
 - 1. Nuisances Subject to Abatement: The following are declared nuisances subject to immediate abatement by resolution of the City Council:

- a. Any dog/cat that has, without provocation, inflicted “substantial bodily harm” as defined by Minnesota State Statute; or
 - b. Any dog/cat that has engaged in conduct resulting in three (3) or more established violations of this article for nuisance. An “established violation” is any violation for nuisance declared as “established” by the City Council, or which results in conviction in a court of competent jurisdiction; or
 - c. Any established violation of this article for nuisance preceded by a declaration by the City Council, based upon prior incident, that the dog/cat is a “dangerous dog/cat” as defined by this article.
2. Placement On Council Agenda: Upon determination by the City Clerk of the existence of a nuisance subject to abatement as set forth above, the City Clerk shall place the matter on the agenda for the next regular meeting of the City Council for public hearing and abatement consideration. Notice of the hearing and a copy of this article shall be provided to the owners of the dogs/cats by regular mail not later than seven (7) days prior to the hearing. The City Clerk may also notify other concerned or interested parties.
3. Hearing For Abatement: Upon application and notice set forth above, a public hearing shall be held before the City Council. The owners shall have the opportunity to be heard and present relevant witnesses and evidence. The City Council may also accept relevant testimony or evidence from other interested persons.
4. Decisions By City Council: The City Council may, in its discretion, approve or disapprove the application for abatement. If approved, the City Council may order any of the following:
 - a. The dog/cat be forthwith confiscated and destroyed in a proper and humane manner, and the costs incurred in confiscating, confining and destroying the animal paid by the owner. Any costs unpaid after thirty-(30) days of the order shall be assessed against the owner's property.
 - b. The dog/cat shall be removed permanently from the city limits within forty-eight (48) hours of notice of the order. The dog

license shall be permanently revoked.

- c. Should the owner fail to comply with the order to abate, the city, in addition to any other legal remedy, shall have the civil remedy of injunctive relief and may apply to a court of competent jurisdiction for an order compelling compliance with the abatement order

F. **Summary Destruction of Certain Dogs:** Whenever an officer has reasonable cause to believe that a particular dog presents a clear and immediate danger to residents of the city because it is infected with rabies (hydrophobia) or because of a clearly demonstrated vicious nature, the officer, after making reasonable attempts to impound such dog, may summarily destroy said dog.

5-1A-7: **POTENTIALLY DANGEROUS DOGS AND CATS:** In the event that a complaint is received which, in the judgment of the City Clerk, Sheriff's Deputy, animal control officer, or other duly authorized person, occurred under circumstances which would justify the classification of the dog/cat as potentially dangerous under this article, the City Clerk shall notify the owner of the dog/cat, in writing, that the dog/cat has been classified as potentially dangerous under this article. Said notice shall further inform the owner that should the dog/cat again aggressively bite, attack, or otherwise endanger the safety of humans or domestic animals, the city may declare the dog/cat to be a dangerous dog/cat and be subject to the restrictions thereon, including abatement. Said authorization shall forward a copy of the notice of potentially dangerous dog/cat to the City Clerk.

5-1A-8: **DANGEROUS DOGS AND CATS:** In the event that a complaint is received which, in the judgment of the City Clerk, occurred under circumstances which would justify the classification of the dog/cat as a dangerous dog/cat under this article, the City Clerk shall place the issue on the next available agenda of the City Council and shall notify the owner of the dog/cat, in writing, of the time and place of the Council meeting at which the matter shall be heard. The notice shall inform the owner that a request has been made to classify the dog/cat as a dangerous dog/cat and the City Council shall hear such facts as any interested parties may wish to present, and shall, by resolution, determine whether or not to classify the dog/cat as a dangerous dog/cat. Such a determination shall be made upon the basis of whether or not the criteria as found in Section 5-1A-1 of this article, definition of the term "dangerous dog/cat", have been met. No variances shall be permitted from the strict terms of said definition. In the event a dog/cat is classified as a dangerous dog/cat, the following shall apply:

- A. The owner of the dog/cat shall be notified in writing and by certified mail or personal service, that the dog/cat has been classified as a dangerous dog/cat and shall be furnished with a copy of the resolution.

- B. If the dog/cat was impounded and photographs or other identifying characteristics obtained, such photographs or other identifying materials shall be placed in a permanent file indexed under the owner's name. If the dog/cat is not impounded, the owner shall be notified that the dog/cat license shall be revoked unless, within ten (10) days after receipt of the notice, the owner furnishes to the city suitable photographs or other identifying materials of the dog/cat, or makes the dog/cat available for the taking of photographs by city staff for insertion in the permanent files.
- C. The City Clerk shall maintain a permanent file of all dogs/cats classified as dangerous dogs/cats indexed under the owner's name.
- D. No person may own a dangerous dog/cat in the city unless the owner complies with this section. The animal control authority of the city may charge the owner an annual fee, in addition to any regular dog/cat licensing fees, to obtain a certificate of registration for a dangerous dog/cat under this section. A dangerous dog/cat registered under this section must have a standardized, easily identifiable tag identifying the dog/cat as dangerous and containing the uniform dangerous dog symbol, affixed to the dog/cat's collar at all times. The owner of the dangerous dog/cat must comply with the following provisions and present sufficient evidence of compliance with them:
1. A proper enclosure exists for the dangerous dog/cat and a posting on the premises with a clearly visible warning sign that there is a dangerous dog/cat on the property, including a warning symbol to inform children; and
 2. A surety bond issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable by the city in the sum of at least three hundred thousand dollars (\$300,000.00) payable to any person injured by the dangerous dog/cat, 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 three hundred thousand dollars (\$300,000.00), insuring the owner of any personal injuries inflicted by the dangerous dog/cat.
 3. The owner has paid an annual fee, in addition to any regular dog/cat licensing fees, to obtain a certificate of registration from the city for a dangerous dog/cat.

4. The owner has had microchip identification implanted in the dangerous dog/cat as required under Minnesota Statutes Section 347.515.
5. The owner of a dangerous dog/cat shall keep the dangerous dog/cat, while on the owner's property, in a proper enclosure. If the dog/cat is outside the proper enclosure, the dog/cat must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible individual. The muzzle must be made in a manner that will prevent the dog/cat from biting any person or animal but that will not cause injury to the dog/cat or interfere with its vision or respiration.
6. The animal control authority for the city shall immediately seize any dangerous dog/cat if: 1) after fourteen (14) days after the owner has been notified that the dog/cat has been declared a dangerous dog/cat, the dog/cat is not validly registered as set forth herein; 2) after fourteen (14) days after the owner has been notified that the dog/cat has been declared a dangerous dog/cat, the owner does not secure the proper liability insurance or surety coverage as applied by this article; 3) the dog/cat is not maintained in the proper enclosure; 4) the dog/cat is outside the proper enclosure and not under physical restraint of a responsible individual; 5) the dog is not sterilized within 30 days, pursuant to city code section 5-1A-11 A 4.j. If the owner of a dog/cat is convicted of a crime for which the dog/cat was originally seized, they may order that the dog/cat 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/cat.
7. If the animal control authority for the city issues a certificate of registration to the owner of a dangerous dog/cat, the animal control authority requires posting of the owner's property with a warning symbol to inform children that there is a dangerous dog/cat on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The animal control authority for the city may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.

8. An owner of a dangerous dog/cat must renew the registration of the dangerous dog/cat annually until the dog/cat is deceased. If the dog/cat is removed from the city, it must be registered as a dangerous dog/cat in its new jurisdiction.
 9. An owner of a dangerous dog/cat must notify the animal control authority of the city in writing of the death of the dog/cat or its transfer to a new location where the dog/cat 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/cat's death or disposition or the complete name, address, and telephone number of the person to whom the dog/cat has been transferred or the address where the dog/cat has been relocated.
 10. The animal control authority of the city shall require a dangerous dog/cat to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority may seize the dog/cat and have it sterilized at the owner's expense.
 11. A person who owns a dangerous dog/cat and who rents property from another where the dog/cat 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/cat that will reside at the property.
 12. A person who transfers ownership of a dangerous dog/cat must notify the new owner that the animal control authority has identified the dog/cat 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. All provisions of Minnesota State Statute Sections 347.54, 347.541, 347.542, 347.55, 347.56, and 347.565 are hereby adopted into this Code by reference. These particular sections deal with seizure, disposition of seized animals, restrictions on dog ownership, penalties, and destruction of dogs in certain circumstances.
- F. The following are exceptions to the dangerous dog/cat classification:

1. The provisions of this section do not apply to dangerous dogs/cats used by law enforcement officials for official work.

2. Dogs/cats may not be declared dangerous if the threat, injury, or damage was sustained by a person: 1) who was committing a willful trespass or other tort upon the premises occupied by the owner of the dog/cat; 2) who was provoking, tormenting, abusing or assaulting the dog/cat or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog/cat; or 3) who was committing or attempting to commit a crime.

G. Nothing in this chapter, nor the enactment of any other procedures herein enumerated, shall be deemed to limit, alter, or impair the right of the city or any person to seek enforcement through criminal prosecution of any violation of this article, and the fact the city may be pursuing classification of a dog/cat under this article shall prevent or prohibit the prosecution at the same time of an owner of a dog/cat for violation of this chapter under facts arising from the same occurrence as that which generated classification procedures. The classification procedures shall be in addition to, and not in place of, criminal prosecution under other portions of this chapter or other ordinances.

5-1A-9: IMPOUNDMENT AND REDEMPTION PROVISIONS:

A. Impoundment Of Dogs And Cats:

1. Unrestrained Dogs And Cats: Unrestrained dogs and cats may be taken by any "officer" as hereinbefore defined and impounded in an animal shelter and there confined in a humane manner. Impounded dogs and cats shall be kept for not less than five (5) regular business days unless reclaimed prior to that time by their owner as provided hereafter.

2. Dangerous Dogs And Cats:

a. Whenever any owner of a dog/cat shall learn that such dog/cat has bitten, attacked, or threatened any other human being or domestic animal, such owner shall immediately impound said dog/cat in a place of confinement where it cannot escape or have access to any other human being or animal, and it shall also immediately notify any peace officer, dog/cat catcher, or other person authorized by the City Council. Whenever such authorized person, peace officer or dog/cat catcher shall learn that any human being has been bitten by any dog/cat within the city, he/she shall ascertain the identity of such dog/cat and the persons who might meet the definition of owner as found elsewhere in this article, and shall immediately direct such person to forthwith impound such dog/cat as required herein. If in the opinion of such peace officer, dog/cat catcher, or

other authorized person, the owner of such a dog/cat cannot or will not so impound the dog/cat, such peace officer, dog/cat catcher, or other authorized person shall transport such dog/cat to the pound under contract to the city. Any dog/cat so impounded shall be kept continuously confined for a period of fourteen (14) days from the day the dog/cat bit a human being. The cost of such impounding and confinement shall be borne by the owner of the dog/cat, if such owner can be found, which costs shall be as stated for impounding and confinement elsewhere in this article.

b. Upon learning that a dog/cat has bitten a human being, the peace officer, dog/cat catcher, or other authorized person shall immediately notify the City Health Officer and inform him/her of the place where the dog/cat is impounded. It shall be the duty of the City Health Officer to inspect said dog/cat from time to time during its period of fourteen (14) days' confinement, and to determine whether or not such dog/cat may be infected with rabies. For this purpose, he/she shall have access to the premises where such dog/cat is kept at all reasonable hours, and may take possession of the dog/cat and confine it at such place as he/she deems appropriate at the expense of the owner.

c. If an owner has impounded a dog/cat pursuant to the request of a peace officer, dog/cat catcher, or other authorized person, the owner shall promptly transport said dog/cat to the pound under contract to the city for the purposes stated above. If the owner refuses to do so, and refuses to allow a peace officer, dog/cat catcher or other authorized person to transport the dog/cat to the contract pound, the owner shall be in violation of this article.

B. Notice Of Impoundment:

1. Posted Notice: Upon taking up and impounding any dog or cat, the animal control officer shall, within one day thereafter, have posted in the City Hall a notice of impounding in substantially the following form:

NOTICE OF IMPOUNDING DOG/CAT:

Date _____, 20__

To whom it may concern:

We have this day taken up and impounded in the pound of the city at _____, a dog/cat answering the following description: sex _____ color _____ breed _____ approximate age _____ name of owner (if known) _____

Notice is hereby given that unless said dog/cat is claimed and redeemed on or before _____ o'clock ____ .M., on the _____ day of _____, 20__ , the same will be sold or humanely destroyed as provided by ordinance.

Signed: _____

Animal control officer/city official

2. Written Notice: If the owner of said dog or cat be known, written notice of impounding, in lieu of posted notice, shall be given to the owner thereof either by mail or personal service.
 3. Effect Of Notices: The date of sale or humane destruction of the dog or cat shall be the sixth day after posting of the notice or giving notice unless the animal shelter at which the dog or cat is impounded is closed to the public, in which case, it shall be the following day.
- C. Redemption Of Impounded Dogs And Cats: Any dog or cat may be reclaimed from the animal shelter by its owner within the time specified in the notice by the payment to the City Clerk or his/her designate of the license fee (if not paid for the current period) with an impounding fee as set by contract with the city's animal control officer. Notwithstanding this subsection, the owner shall remain subject to all penalties contained in this article.
- D. Disposition Of Unclaimed Dogs And Cats:
1. Sale: Any dog or cat which is not claimed as provided in Subsection B of this section, within five (5) days, after posting of the impoundment notice, may be sold for not less than the expenses incurred for impoundment, if not requested by a licensed educational or scientific institution under Minnesota state law. All sums received from the sale of dogs or cats under this subsection shall be deposited into the general fund of the city.
 2. Destruction: Any dog or cat which is not claimed by the owner or sold or transferred to a licensed educational or scientific institution shall be painlessly and humanely destroyed and buried by the animal control officer.
- 5-1A-10: **ENFORCEMENT OFFICIALS:** The City Council may from time to time appoint such persons as may be necessary to assist the police officers of the city in the enforcement of this article. Such persons shall have police powers insofar as is necessary to enforce this article, and no person shall interfere with, hinder, or molest them in the exercise of such powers.

5-1A-11: **CITATIONS:** The animal control officer, or his/her designee, shall be authorized to issue citations for violations of this article.

5-1A-12: **VIOLATION; PENALTY:** Any person who shall violate any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law.

CHAPTER 1

ANIMAL CONTROL

ARTICLE B. EQUINES

SECTION:

- 5-1B-1: Purpose
- 5-1B-2: Definitions
- 5-1B-3: Permit Requirements
- 5-1B-4: Minimum Acreage
- 5-1B-5: Sketch Drawing
- 5-1B-6: Site And Structure Requirements
- 5-1B-7: Care And Maintenance Of Equines
- 5-1B-8: Control, Trespass And Public Rights-Of-Way
- 5-1B-9: Time Limit For Compliance
- 5-1B-10: Variances
- 5-1B-11: Continuance Of Existing Use

5-1B-1: **PURPOSE:** The purpose and intent of this article is to allow equines in residentially zoned districts and to ensure proper handling, care, and treatment of equines. (Ord. 207, 3-18-1997)

5-1B-2: **DEFINITIONS:**

EQUINE: Any donkey, horse, pony or mule. (Amended Ord. 471, 6-20-17)

FOAL: An equine which has not reached the age of one year.

PARCEL: A designated lot, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

PUBLIC HEARING: A meeting announced and advertised in advance and open to the public, with the public given an opportunity to speak and participate.

PUBLIC HEARING
NOTICE:

An advertisement of a public hearing in the city's official newspaper, and through other media sources, indicating the time, place and nature of the public hearing.

PUBLIC

PROPERTY: Land owned or operated by municipal, school district, county, state or other governmental units.

STRUCTURE: Anything erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, and meets State Building Code requirements. (Ord. 207, 3-18-1997; amd. 2003 Code)

5-1B-4 3: PERMIT REQUIREMENTS:

- A. Permit Required; Application: No person, firm or corporation will keep, stable or maintain equines within the city on parcels of land less than five (5) acres without applying for and obtaining a permit from the city. The application for a permit shall include a sketch drawing as stated in Section 5-1B-5 of this article. The City Administrator or City Administrator's designee will review such application and shall make final determination (approval or denial) of the permit. (Amended Ord. 471, 6-20-17)
- B. Inspection; Duration Of Permit: The City Administrator or City Administrator designee shall inspect the premises to assure compliance with the standards and regulations of this article prior to a permit being issued. The permit (if issued) will be of indefinite duration, but may be subject to revocation by the city as provided by Section 5-1B-3, paragraph C of this article. (Amended Ord. 471, 6-20-17)
- C. Revocation Of Permit:
 - 1. Request For Revocation: All requests by residents or staff seeking revocation of a permit for equines shall be made in writing to the City Clerk. The City Clerk shall refer the request to the Planning and Zoning Department.
 - 2. Hearing: A staff report will be prepared and discussed at a City Council meeting within thirty (30) days from which the written request was received. All property owners and occupants within three hundred fifty feet (350') of the property in question will be notified by mail at least ten (10) days prior to the City Council meeting. Failure of any property owner or occupant to receive such public hearing notice shall not invalidate such proceedings.
 - 3. Decisions By City Council: At such public hearing, the City Council shall determine whether revocation of the permit for equines is warranted and shall issue written findings of fact, conclusions of law and order pertinent

to revocation. The findings of fact, conclusions of law, and an order shall be filed with the City Clerk and shall be mailed to all interested parties appearing or represented at said hearing. (Ord. 207, 3-18-1997)

5-1B-4: **MINIMUM ACREAGE:**

- A. The following chart prescribes the number of equines that can be maintained on residentially zoned parcels of land as shown:

<u>Acreage</u>	<u>Number Of Equines Permitted</u>
Less than 2.5 acres	0 equines (none permitted)
2.5 acres but less than 3 acres	1 to 3 equines
3 acres but less than 3.5 acres	1 to 4 equines
3.5 acres but less than 4 acres	1 to 5 equines
4 acres but less than 4.5 acres	1 to 6 equines
4.5 acres but less than 5 acres	1 to 7 equines
5 acres or more (Ord. 207, 3-18-1997)	No more than 3 equines per acre

- B. Any foal is not considered to be a permanent part of the equine count and does not affect the number of equines permitted as established in the chart above. (Ord. 207, 3-18-1997; amd. 2003 Code)

5-1B-5: **SKETCH DRAWING:** Prior to maintaining and boarding an equine on any parcel of land between two and one-half (2 1/2) and five (5) acres, the property owner shall provide a sketch drawing to the Planning and Zoning Department. The required sketch drawing information shall include the following:

- A. Name and address of the fee owner of the subject property where the equines are to be maintained and the name and address of occupant of subject property.
- B. Legal description of subject property.
- C. Acreage of subject property and area enclosed by corrals and/or fences.
- D. The number of equines to be maintained on subject property.

- E. Sketch drawing showing, to scale:
1. Location of all buildings on subject property;
 2. Location and area of said fence or corral on subject property;
 3. Location and distance from subject property of all adjacent properties' buildings; and
 4. Area on subject property where manure will be stored. (Ord. 207, 3-18-1997); and
 5. Location of well and septic system (tank, drain field, line from home) (Amended Ord. 471, 6-20-17)

5-1B-6: **SITE AND STRUCTURE REQUIREMENTS:**

- A. Fences And Corrals: On parcels of land maintaining equines, there shall be thereon secure fences or corrals enclosing at least eight hundred (800) square feet of land per equine. Said fences or corrals shall be located no closer than fifty feet (50') from any residence and shall be of sufficient height and strength to retain equines; fencing materials and type to be approved by the City Administrator or City Administrator's designee¹. (Amended Ord. 471, 6-20-17)
- B. Shelter Requirements: On parcels of land maintaining equines, there shall be a shelter or covered structure to protect the equines from the elements of weather. Said shelter or structure shall have a minimum roof size and living area of eighty (80) square feet per equine to protect the equine from direct rays of the sun, be structurally sound, free of injurious matter, maintained in good repair and ventilated. Said structure shall be no closer than one hundred feet (100') from the habitable portion of any dwelling and fifty feet (50') from abutting property lines². The separation between the shelter or structure and a well shall be as established by state health codes.
- C. Use In Yards: No equines shall be maintained, within the front yard setback of residentially zoned parcels of land three (3) acres or less, without review by the City Administrator or City Administrator's designee and approval by the City Council. (Amended Ord. 471, 6-20-17)
- D. Manure Management; Insect And Rodent Control:

¹ See title 12, chapter 7 of this code for fence requirements and restrictions.

² See title 12, chapter 6 of this code for accessory building requirements and restrictions.

1. Manure:

a. Manure shall be handled or treated in such a manner so as not to create a public nuisance and shall be conducted in the rear yard only. Accumulations of manure shall not be allowed in the front and side yards.

b. Accumulations of equine manure on any public right-of-way, sidewalk or alley shall not be permitted, and the equine owner shall be responsible to abate such nuisances.

2. Maintenance Of Enclosures: Corrals, pens, stables or similar enclosures shall be maintained in a manner to minimize fly breeding and rodent infestation. (Ord. 207, 3-18-1997)

5-1B-7: **CARE AND MAINTENANCE OF EQUINES:** Proper care and maintenance of each equine shall be the responsibility of the person, firm or corporation designated as the owner, caretaker or custodian of such equine. No equine shall be treated cruelly or inhumanely by any person or in violation of state law. (Ord. 207, 3-18-1997)

5-1B-8: **CONTROL, TRESPASS AND PUBLIC RIGHTS OF WAY:**

A. Running At Large Prohibited; Impoundment And Redemption:

1. Running At Large Prohibited: No person shall permit any equine to run at large within the city when it is off the premises owned or rented by its owner and unaccompanied by the owner or an agent or employee of the owner.

2. Authority To Impound; Notice: The City Administrator or designee may impound any equine found at large and shall provide proper sustenance for any impounded equine. The City Administrator or designee shall, within twenty-four (24) hours after such equine has been impounded, post written notice at City Hall describing such equine and stating that it has been impounded. Notification shall be given to the City Council. (Amended Ord. 471, 6-20-17)

3. Redemption Of Impounded Equine; Costs: Costs incurred by the city for impounding an equine shall be paid by the equine owner to the city prior to releasing the equine. An impounded equine shall be released only to a person providing proof of ownership and displaying a receipt from the City Clerk showing payment of the reasonable costs of impounding, housing, feeding, and veterinarian care.

4. Unredeemed Animals; Additional Notice; Sale: In the event an equine impounded by the city is not redeemed within fourteen (14) calendar days,

the City Administrator or designee shall give an additional three (3) days' notice of the time and place where such equine will be sold by posting notice at City Hall. If such equine cannot be sold on the day stated, it may be sold as soon as possible thereafter without notice. The proceeds from such sale shall be deposited in the city's general fund.

- B. Riding After Dark: No person may ride or drive an equine after the hour of sunset and before the hour of sunrise along or crossing any public right-of-way without appropriate lighting or reflectorized clothing.
- C. Riding On Public Property: No person shall ride or drive an equine in any public park, beach, school yard or public property except within the right-of-way of public streets and highways and in such areas duly designated as a trailway or hitching area.
- D. Riding On Private Property: No person shall ride or drive any equine upon private property without the prior permission of the owner or occupant thereof.
- E. Interference Prohibited: No person shall interfere with any equine being ridden, driven or kept in a lawful manner. (Ord. 207, 3-18-1997)

5-1B-9: **TIME LIMIT FOR COMPLIANCE:** The City Administrator or City Administrator's designee may inspect the property nine (9) months after the permit was granted and approved to determine that the property is in compliance with the provisions of this article. If attempts have not been made to comply with the provisions of this article one year after the permit was issued, the permit will be declared null and void. (Ord. 207, 3-18-1997; Amended Ord. 471, 6-20-17)

5-1B-10: **VARIANCES:** Variances from the provisions of this article shall be processed and granted or denied in the same manner and based on the same criteria as stated in the zoning ordinance¹. (Ord. 207, 3-18-1997; amd. 2003 Code)

5-1B-11: **CONTINUANCE OF EXISTING USE:** Any use or structure constructed prior to May 7, 1991, for the purpose of sheltering equines may be continued at the size and in the manner of operation. (Ord. 207, 3-18-1997)

¹ See section 12-15-7 of this code.

CHAPTER 1

ANIMAL CONTROL

ARTICLE C. NON-DOMESTICATED ANIMALS

SECTION:

- 5-1C-1: Definition
- 5-1C-2: Prohibited Animals
- 5-1C-3: Sales Prohibited
- 5-1C-4: Exceptions
- 5-1C-5: Removal And Destruction Provisions
- 5-1C-6: Violation; Penalty

5-1C-1: **DEFINITION:** A "non-domesticated animal" is any animal, reptile or fowl, which is not naturally tame or gentle but is of a wild nature or disposition or which, because of its vicious nature or other characteristics, would constitute a danger to human life or property. (Ord. 253, 3-2-1999)

5-1C-2: **PROHIBITED ANIMALS:** The following animals are prohibited within the city:

- A. Any animal or species prohibited by Minnesota or Federal law.
- B. Any non-domesticated animal or species, including, but not limited to, the following:
 - 1. All skunks, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies.
 - 2. All large cats of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.
 - 3. All members of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs.
 - 4. All crossbreeds, such as crossbreeds between dogs and coyotes or dogs and wolves, but does not include crossbreeds between domesticated

animals.

5. All poisonous snakes, such as rattlesnakes, coral snakes, water moccasins, cobras or copperheads.

6. All raccoons.

7. All apes and monkeys.

8. All other animals which are not listed explicitly above, but which can be easily defined in this article as a non-domesticated animal including bears, wolverines and badgers. (Ord. 253, 3-2-1999)

5-1C-3: **SALES PROHIBITED:** No person shall offer for sale, within the city limits, any animal prohibited in Sections 5-1C-1 and 5-1C-2 of this article. (Ord. 253, 3-2-1999)

5-1C-4: **EXCEPTIONS:**

A. Animals Allowed By Permit:

1. Temporary Permit: Any person desiring to keep animals prohibited as described in this article shall obtain a temporary permit from the City Council. Such a permit shall be issued for a period not to exceed thirty (30) days and shall specify further conditions under which such animal shall be kept; provided however, that no such permit shall be required for such prohibited animal brought into the city for entertainment, show or promotional purposes only. (Ord. 253, 3-2-1999; amd. 2003 Code)

2. Permanent Permit: A public zoo or other institution engaged in a permanent display of animals may be issued a permanent permit, provided applicable zoning requirements are met.

3. Conditional Use Permit: Falconry shall require a Conditional Use permit and be subject to State Statute and the regulations of the Minnesota Department of Natural Resources. (Ord. 325A,4-18-06)

B. No Permit Required For Certain Animals:

1. Nonpoisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, turtles or lizards, and similar small animals capable of being maintained continuously in cages are also exempt and do not require a permit.

2. Persons keeping animals for a public zoo as volunteers, docents or

otherwise, bona fide research institutions or veterinary hospitals are exempt from the permit requirement, provided protective devices adequate to prevent such animals from escaping or injuring the public are provided.

3. Handicapped persons keeping monkeys trained as household helpers are exempt. (Ord. 253, 3-2-1999)

5-1C-5: **REMOVAL AND DESTRUCTION PROVISIONS:** The owner of a prohibited animal shall be notified immediately that the animal shall be removed from the city permanently. If not removed from the city within forty-eight (48) hours, the animal shall be confiscated and destroyed in a proper and humane manner, and the costs incurred in confiscating, confining and destroying the animal paid by the owner. Any costs unpaid after thirty-(30) days shall be assessed against the owner's property. (2003 Code)

5-1C-6: **VIOLATION; PENALTY:** Any person, firm, corporation, or voluntary association which violates any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with state law. (Ord. 253, 3-2-1999)

CHAPTER 1

ANIMAL CONTROL

ARTICLE D. HONEY BEES (*Apis Mellifera*)

SECTION

5-1D-1: Minimum Requirements for Keeping of Honey Bees

5-1D-2: Required Improvements and Maintenance

5-1D-3: Violation; Penalty

5-1D-1: **MINIMUM REQUIREMENTS FOR KEEPING OF BEES:**

- A. Location: Honey bee keeping shall only be permitted on properties that are zoned R-1: Single-Family Rural Residential, R-2: Single-Family Estate Residential, R-3: Single-Family Suburban Residential or R-4: Single-Family Residential. (Amended Ord. 501, 2/4/20)
- B. Lot Size: Honey bee keeping shall be permitted on any property more than or equal to two acres. On lots greater than 2 acres, there shall be no restriction on the number of hives, though all other requirements of the City Code shall be met.
 - 1. Honey bee keeping may be permitted on a property less than 2 acres in size subject to the following conditions:
 - a. The hive(s) are at least 125 feet from a neighboring principle structure;
 - b. There are no more than 2 hives;
 - c. A license is obtained pursuant to the provisions stated herein. Application shall be made on a form provided by the City. If approved, a license shall be issued for a period of 2 years;
 - d. Property owners and occupants within one hundred twenty-five feet (125') of subject properties shall be notified in writing. (Amended Ord. 501, 2/4/20)
- C. Hive Location Requirements: Every effort should be made to locate hives in the center of the property, as far from the property lines as possible. All hives must be set back a minimum of 25 feet from the property line.

5-1D-2: **REQUIRED IMPROVEMENTS AND MAINTENANCE:**

- A. All hives located closer than 50 feet to a property line shall be surrounded by a hedge or other similar barrier to ensure that the bees assume a vertical flight pattern upon entering or exiting the

hive.

- B. A convenient source of water shall be provided at all times to avoid the congregation of bees at swimming pools, bird baths, or other water sources where they might come in contact with people or pets.
- C. No wax comb or other such materials are to be left on the grounds of the property. Upon removal from the hive, all such material shall be promptly disposed of in a sealed, bee-proof container or placed within a building or other bee-proof enclosure.

5-1D-3: **VIOLATION; PENALTY:** Any person who shall violate any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law.

CHAPTER 1: ANIMAL CONTROL

ARTICLE E. CARE OF ANIMALS

SECTION

- 5-1E-1: General Provisions
- 5-1E-2: Animal Restraint
- 5-1E-3: Nuisances
- 5-1E-4: Violation; Penalty

5-1E-1: **General Provisions:**

- A. Animals kept within the City shall be properly cared for by a person of sufficient age, knowledge and experience to adequately and safely care for and control the animal(s).
- B. No owner of any animal shall fail to provide with:
 - 1. Sufficient food, potable water, or proper diet appropriate for its species.
 - 2. Proper shelter and protection from the weather appropriate for its species.
 - 3. Veterinary care when needed to prevent suffering and maintain the normal health of the animal.
 - 4. Humane care and treatment.
- C. No person shall:
 - 1. Abandon any animal anywhere within the city.
 - 2. Beat, treat cruelly, torment or otherwise abuse any animal.
 - 3. Cause or permit any animal fights.
 - 4. Leave any animal unattended in a standing or parked motor vehicle in a manner that endangers the animal's health or safety.

5-1E-2: **Animal Restraint:**

- A. No person owning or keeping an animal may permit the animal to run at large or enter upon the premises of another without permission, nor may any such animal be kept raised or permitted to go on any street, park, lake

or public pond area without proper restraint.

- B. Animals which are permitted to roam and/or graze about a property must be contained on the property through a suitable fencing system or other means of ensuring restraint so as to contain the animals from roaming and/or grazing to the property of the person keeping or maintaining the animals. If a fence is used to contain the animals;
 - 1. The fence shall be of sufficient type so as to effectively control the animals therein and to prevent an animal from crossing the boundaries established by the fence.
 - 2. Such a fence shall also be in compliance with all fencing regulations as set forth in City Code Title 12 Chapter 7.

5-1E-3: Nuisances:

- A. No person shall keep or harbor any animal in any unsanitary place or condition, or in a manner that results in noisome odors.
- B. No person shall own, keep or harbor an animal which unreasonably causes annoyance or disturbance to another person by frequent barking, crying, crowing, howling, fighting or other similar noises. The phrase “unreasonably causes annoyance or disturbance” includes the creation of noise by an animal which can be heard by any person, including a law enforcement officer, from a location outside of the unit, building or premises where the animal is being kept and which the 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.
- C. No person shall feed animals in a manner that attracts wild animals, causes property damage, allows for excessive amounts of feed to accumulate, or poses a public health threat. Bird feeders are excluded from this provision.
- D. Property owners are required to clean all feces from their property as often as necessary to prevent contamination to animals or humans and to avoid nuisances from odors and breeding of insects, but in no case less than weekly.

5-1E-4: VIOLATION; PENALTY: Any person who shall violate any provision of this article shall be guilty of a petty misdemeanor and, upon conviction thereof, shall be punished as defined by state law. (Ord. 459, 4/19/16)

CHAPTER 2

MINORS

SECTION:

5-2-1: Curfew Regulations

5-2-1: **CURFEW REGULATIONS:**

A. Definitions:

CURFEW: A regulation enjoining the withdrawal of specified persons from the streets, avenues, parks and public property within the City of Andover at a stated hour.

MINOR: A person who is sixteen (16) years of age or under.

B. Age And Hour Restrictions:

1. Eleven Years And Younger: It shall be unlawful for any person eleven (11) years of age and under to be present on any public street, avenue, park or other public place in the city between the hours of:

Sunday	9:00 P.M. through Monday	5:00 A.M.
Monday	9:00 P.M. through Tuesday	5:00 A.M.
Tuesday	9:00 P.M. through Wednesday	5:00 A.M.
Wednesday	9:00 P.M. through Thursday	5:00 A.M.
Thursday	9:00 P.M. through Friday	5:00 A.M.
Friday	11:00 P.M. through Saturday	5:00 A.M.
Saturday	11:00 P.M. through Sunday	5:00 A.M.

unless accompanied by a parent, guardian or person having lawful custody and control thereof, or unless there exists a reasonable necessity therefore.

2. Twelve To Fourteen Years: It shall be unlawful for any person twelve (12) to fourteen (14) years of age to be present on any public street, avenue, park or other public place in the city between the hours of:

Sunday	10:00 P.M. through Monday	5:00 A.M.
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Monday	10:00 P.M. through Tuesday	5:00 A.M.
Tuesday	10:00 P.M. through Wednesday	5:00 A.M.
Wednesday	10:00 P.M. through Thursday	5:00 A.M.
Thursday	10:00 P.M. through Friday	5:00 A.M.
Friday	11:00 P.M. through Saturday	5:00 A.M.
Saturday	11:00 P.M. through Sunday	5:00 A.M.

unless accompanied by a parent, guardian or person having lawful custody and control thereof, or unless there exists a reasonable necessity therefore.

3. Fifteen To Seventeen Years: It shall be unlawful for any person fifteen (15) to seventeen (17) years of age to be present on any public street, avenue, park or other public place in the city between the hours of:

Sunday	11:00 P.M. through Monday	5:00 A.M.
Monday	11:00 P.M. through Tuesday	5:00 A.M.
Tuesday	11:00 P.M. through Wednesday	5:00 A.M.
Wednesday	11:00 P.M. through Thursday	5:00 A.M.
Thursday	11:00 P.M. through Friday	5:00 A.M.
Friday	12:01 A.M. through Saturday	5:00 A.M.
Saturday	12:01 A.M. through Sunday	5:00 A.M.

unless accompanied by a parent, guardian or person having lawful custody and control thereof, or unless there exists a reasonable necessity therefore. (Ord. 248, 12-1-1998; amd. 2003 Code)

- C. Responsibility Of Parent Or Guardian; Prima Facie Evidence: It shall be unlawful for any parent, guardian, or other person having the lawful care, custody, or control of any minor to allow or permit such minor to violate the provisions of this section. The finding of any minor in violation of curfew shall be prima facie evidence that a parent, guardian, or other person having lawful care, custody, or control allowed or permitted the violation.
- D. Notices Of Violation: Any police officer or Sheriff's Deputy, upon finding a minor in violation of this section, shall notify the parents, guardian, or person having custody or control of such minor and the juvenile authorities.
- E. Violation; Penalty: Any person violating any provisions of this section shall be guilty of a misdemeanor as defined by state law and subject to the penalties thereof. (Ord. 248, 12-1-1998)

CHAPTER 3

GAMBLING

SECTION:

- 5-3-1: Purpose
- 5-3-2: Definitions
- 5-3-3: Licensing Requirements
- 5-3-4: Premises Permit
- 5-3-5: Approved Organizations
- 5-3-6: Management
- 5-3-7: Expenditures, Profits And Taxes
- 5-3-8: Background Information
- 5-3-9: Violation; Penalties

5-3-1: **PURPOSE:** The purpose of this chapter is to closely regulate and control the conduct of gambling and to ensure that profits derived from gambling activities in the city provide, to the extent authorized by law, direct benefits for the citizens of Andover. (Amended Ord. 258, 5-4-1999)

5-3-2: **DEFINITIONS:** For the purposes of this chapter, the following words and terms will have the meanings given them:

BOARD: The State Gambling Control Board.

LAWFUL

GAMBLING: The operation of gambling activities by an organization eligible for a license from the Board to conduct such activities.

NET PROFITS, LAWFUL PURPOSE, AND ALLOWABLE

EXPENSE: Will have the meanings provided in Minnesota Statutes Section 349.12, as may be amended from time to time.

PREMISES

PERMIT: A resolution adopted by the City Council authorizing the named organization to operate lawful gambling activities at a specified location in the city.

TRADE AREA: The cities of Andover, Anoka, Coon Rapids, Ramsey,

Oak Grove, and Ham Lake. (Amended Ord. 258, 5-4-1999)

5-3-3: LICENSING REQUIREMENTS:

- A. State License Required: Except as specifically exempted by this chapter, no organization may operate lawful gambling activities in the city without a license issued by the Board.
- B. Disapproval Of License: Nothing contained in this chapter shall be deemed to limit the City Council's authority to disapprove a license for lawful gambling.
- C. Limitation Of Gambling Licenses: No organization shall be permitted to conduct gambling in more than three (3) establishments within the city. Only one organization shall be permitted to operate or sell lawful gambling devices at an owned or leased establishment. (Amended Ord. 258, 5-4-1999)

5-3-4: PREMISES PERMIT:

- A. Qualification For Permit; Compliance With Provisions: No organization may obtain a new or renewal premises permit, or maintain a premises permit, unless the organization and location of the lawful gambling activities remain in full compliance with the provisions of this chapter and all state laws related to lawful gambling as those laws may be amended from time to time.
- B. Application For Permit: Application for a new or renewal premises permit must be made to the City Clerk on forms provided by the city.
- C. Number Of Permits Per Location: Only one premises permit may be issued to any particular location in the city.
- D. Revocation Of Permit: The City Council may by resolution revoke the premises permit of any organization that does not comply with the requirements of this chapter or state gambling laws as those laws may be amended and revised from time to time. Prior to adopting a revocation resolution, the organization will be given at least ten (10) days' notice of the time, date, and place of the revocation hearing. At the hearing, the organization may appear with or without counsel and submit evidence on its behalf. A resolution revoking a premises permit must include the basis for that action. A certified copy of the resolution will be forwarded to the Board. (Amended Ord. 258, 5-4-1999)

5-3-5: APPROVED ORGANIZATIONS:

- A. In order to be eligible for a premises permit, an organization must meet each of the following requirements:
1. The organization has at least fifteen (15) members that are residents of the city. Such organization must conduct regular meetings at least monthly, and each person must attend not less than fifty percent (50%) of all regularly scheduled meetings and pay dues annually in order to be considered a member of such organization for qualification under this chapter.
 2. The physical site for the organization headquarters or the registered business office of the organization is located within the city and has been located within the city for at least two (2) years immediately preceding the application for a license.
 3. The physical site where the organization regularly holds its meetings and conducts its activities, other than lawful gambling and fundraising, is in the city and has been located within the city for at least two (2) years immediately preceding application for a license.
 4. Meet all the qualifications for a lawful gambling license issued by the Board.
 5. The paddle wheel game is prohibited except for meat raffles, and no premises permit shall be issued to any organization to conduct the paddle wheel game except for meat raffles. (Amend. 10/18/05, Ord. 315)
 6. The maximum rent allowed in leases to charitable organizations must be in compliance with what is set forth in State Statute. No other services or expenses provided or contracted by the lessor may be paid by the organization, including but not limited to trash removal, janitorial and cleaning services, snow removal, lawn services, electricity, heat, security, security monitoring, storage, other utilities or services, and in the case of bar operations, cash shortages. Any other expenditures made by an organization that are related to a leased premises must be approved by the Director of the Gambling Control Board. Rent payments may not be made to an individual. (Ord. 313, 9/06/05)
- B. Any organization, which meets the conditions set forth above shall certify in writing on its application which conditions are being met. (Amended Ord. 258, 5-4-1999)

5-3-6: **MANAGEMENT:** All gambling operations must be managed by a bona fide member of the licensed organization. (Amended Ord. 258, 5-4-1999)

5-3-7: **EXPENDITURES, PROFITS AND TAXES:**

A. Expenditures For Lawful Purposes:

1. During any year that an eligible organization is licensed to conduct gambling events, not less than ninety percent (90%) of its lawful purpose expenditures will be for lawful purposes conducted or located within the city trade area. A semi-annual report of the expenditures for lawful purposes within the trade area shall be provided to the City Clerk on or before July 2 and February 2 of each year after the date of the adoption of this chapter.

2. Not less than ten percent (10%) per year of the amounts specified herein must be expended for lawful purposes within the city.

B. Contribution Of Net Profits: During any year that an eligible organization is licensed to conduct gambling events, such organization shall contribute ten percent (10%) of the net profits derived from lawful gambling to a fund administered and regulated by the city, without cost to such fund, for disbursements by the city of the receipts for lawful purposes.

C. Gambling Tax: Pursuant to Minnesota Statutes Section 349.213, a gambling tax is hereby imposed of one-tenth percent (0.1%) of the gross receipts of each licensed organization from all lawful gambling less prizes actually paid out by the organization. Such tax shall be imposed and commenced to accrue as of September 1, 1991, and shall be payable at the office of the City Clerk on October 2, 1991 and on or before July 2 and February 2 of each year thereafter.

D. Records And Reports: All qualified organizations operating gambling devices in the city shall keep monthly financial records of same and provide such records to the City Clerk commencing September 2, 1991, and on or before July 2 and February 2 of each year thereafter. (Amended Ord. 258, 5-4-1999; amd. 2003 Code)

5-3-8: **BACKGROUND INFORMATION:** A copy of all applications and reports required by and submitted to the Minnesota Charitable Gambling Control Board shall also be submitted to the City Clerk within seven (7) days after they are submitted to said Board. (Amended Ord. 258, 5-4-1999)

5-3-9: **VIOLATION; PENALTIES:** Any person violating any of the

provisions of this chapter shall be guilty of a misdemeanor and subject to all penalties provided under state law. (Amended Ord. 258, 5-4-1999)

CHAPTER 4

WEAPONS

SECTION:

5-4-1: **DISCHARGE OF WEAPONS:**

- A. Definitions: The following definitions shall apply in the interpretation and enforcement of this section:

BOW: All bows used for target and hunting purposes as regulated and defined by Minnesota Statutes Chapter 97B. (Amended Ord. 394, 7-6-10)

FIREARM: Means a gun that discharges shot or a projectile by means of an explosive, a gas, or compressed air. (Amended Ord. 394, 7-6-10)

HANDGUN: A weapon designed to be fired by the use of a single hand and with an overall length less than 26 inches, or having a barrel or barrels of a length less than 18 inches in the case of a shotgun or having a barrel of a length less than 16 inches in the case of a rifle (1) from which may be fired or ejected one or more solid projectiles by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or (2) for which the propelling force is a spring, elastic band, carbon dioxide, air or other gas, or vapor. (Amended Ord. 394, 7-6-10)

IMMEDIATE

FAMILY: All persons related to the landowner which includes the children, siblings, grandchildren and their respective spouses. (Amended Ord. 394, 7-6-10)

RIFLE: A shoulder weapon with a long grooved barrel that uses the energy of the explosive in a fixed metallic cartridge to fire only a single projectile (bullet). (Amended Ord. 394, 7-6-10)

SHOTGUN: A shoulder weapon with a smooth bored barrel or barrels which utilizes gunpowder or any other burning propellant and discharges more than one projectile at a time, except when using ammunition containing a single slug or a combination

of both a single slug and shot in the same shotshell. For the purposes of this Ordinance, a muzzleloader, as regulated by the State of Minnesota, shall be considered a shotgun. (Amended Ord. 240, 10-6-1998, eff. 1-1-1999; amd. 2003 Code; Amended Ord. 394, 7-6-10)

- B. For the purposes of this Ordinance, except Section D.2., “Firearms” and “Handguns” do not include a device firing or ejecting a shot measuring .18 of an inch or less in diameter, commonly known as a “BB gun,” a scuba gun, a stud gun or nail gun used in the construction industry or children’s pop guns or toys. Notwithstanding these exceptions, all other state laws and City Ordinances regarding the use of these items shall apply. (Ord. 394, 7-6-10)
- C. Compliance With Provisions: No person shall discharge at any time a firearm or bow upon or onto any land or property within the city except as provided by this section.
- D. Prohibited Discharges:
 - 1. No person shall discharge a firearm within five hundred feet (500') of any residence or a bow within one hundred fifty feet (150') of any residence except with the permission of the property owner. (Amended Ord. 394, 7-6-10)
 - 2. No person shall discharge a firearm or bow on public property owned or operated by the city, county, state or school district except as provided in City Code 5-4-1G. (Amended Ord. 410, 7-6-11)
 - 3. The discharge of a rifle or handgun utilizing a solid projectile shall not be allowed within the city.
- E. Permitted Discharges; Restrictions:
 - 1. Written permission by the property owner shall be given to any person prior to the discharge of a firearm or bow on his/her property.
 - 2. When recreational target shooting is conducted, the projectile shall be directed at a target with a backstop of sufficient size, strength and density to stop and control the projectile. (Amended Ord. 394, 7-6-10)
 - 3. When discharging a firearm or bow, the projectile shall not carry beyond the property line. (Amended Ord. 240, 10-6-1998, eff. 1-1-1999)

4. All hunting shall be conducted in compliance with the regulations of the State of Minnesota. (Ord. 394, 7-6-10)

F. Hunting Restrictions and Zones Established: The City of Andover Hunting Map attached to this Ordinance and on file in the office of the City Clerk shall establish zones where the discharge of firearms or bows are permitted. Said map and language contained and stated on the map shall become part of this section. No discharge of firearms or bows for the purpose of hunting shall be permitted except in compliance with the regulations of the State of Minnesota, the designated areas established on the City of Andover Hunting Map, the restrictions of this section and the following (Ord. 394, 7-6-10):

1. Restricted Zone North:

a) A minimum property size of ten acres is required for the discharge of firearms for the purpose of hunting or target shooting. (Ord. 394, 7-6-10)

b) A minimum property size of 2.5 acres is required for the discharge of a bow for the purpose of hunting or target shooting. (Ord. 394, 7-6-10)

2. Restricted Zone South:

a) A minimum property size of forty acres is required for the discharge of firearms for the purpose of hunting deer. (Ord. 394, 7-6-10)

b) Permit To Hunt Deer:

1. Permit Required: An individual annual or seasonal permit is required by the city for the discharge of firearms for the purpose of hunting deer with a shotgun (slug only) in Restricted Zone South. Only landowners or immediate family members as defined in this Ordinance are eligible for this permit. (Amended Ord. 240, 10-6-1998, eff. 1-1-1999; amd. 2003 Code; Amended Ord. 394, 7-6-10)

2. Consent Of Property Owners: A request for such permit shall be accompanied by written permission from fifty percent (50%) or more of the adjacent landowners.

3. Conditions Of Issuance: Such permit shall only be issued under the terms consistent with this section and all applicable state and federal laws and regulations concerning the hunting of deer via firearm and discharge of firearms shall occur no closer than one-quarter (1/4) mile from any urban development, park or institutional use. (Amended Ord. 394, 7-6-10; Amended Ord. 504, 3/17/20)

c) A minimum property size of ten acres is required for the discharge of firearms for the purpose of hunting geese during Early Goose Season and waterfowl during the Regular Waterfowl Season as regulated by the State of Minnesota. (Ord. 394, 7-6-10)

d) A minimum property size of 2.5 acres is required for the discharge of a bow for the purpose of hunting or target shooting. (Ord. 394, 7-6-10)

3. Prohibited Zone:

a) The discharge of firearms and bows are prohibited. (Ord. 394, 7-6-10)

G. Exemptions From Provisions:

1. The provisions of this section shall not apply to the discharge of firearms, rifles or handguns when done in the lawful defense of persons or property. No part of this section is intended to abridge the constitutional right to keep and bear arms.

2. The City Council may approve an exemption to this section, with reasonable conditions to protect public health, safety and welfare, to allow the discharge of firearms and bows for the following (Amended Ord. 410, 7-6-11):

- a. For the purpose of managing and controlling wildlife populations, provided the hunt has received support from the Minnesota Department of Natural Resources. (Amended Ord. 410, 7-6-11)
- b. For target shooting as an accessory use to a retail business or as a special event or competition. (Amended Ord. 410, 7-6-11)
- c. For law enforcement training purposes. (Amended Ord. 410, 7-6-11)

H. Violation; Penalty: Any person who violates any provision of this section

shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to state law. (Amended Ord. 240, 10-6-1998, eff. 1-1-1999)

CHAPTER 5

HOME AND BUSINESS ALARM SYSTEMS

SECTION:

- 5-5-1: Definitions
- 5-5-2: Alarm Businesses; State License Required
- 5-5-3: False Alarms
- 5-5-4: Violation; Penalty

5-5-1: **DEFINITIONS:**

ALARM SYSTEM: An assembly of equipment and devices, a single device such as a solid state unit which plugs directly into a 110-volt AC line or a group of such devices at a single location arranged to signal the presence of a hazard requiring urgent attention and to which police, fire or health personnel are expected to respond.

CALENDAR YEAR: The period January 1 through December 31 of each year.

FALSE ALARM: The activation of an alarm system through mechanical or electrical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or his or her employees or agents. "False alarms" do not include conditions that are beyond the control of the alarm user such as utility line mishaps, tornadoes/wind storms, thunderstorms, or earthquakes. (Ord. 256, 5-4-1999)

5-5-2: **ALARM BUSINESSES; STATE LICENSE REQUIRED:** All alarm businesses shall be licensed with the State Board of Electricity. (Ord. 256, 5-4-1999)

5-5-3: **FALSE ALARMS:**

- A. **Report By County Required:** The County Sheriff's office shall file a written report of each false alarm incident with the City Clerk.
- B. **First And Second Alarms; Notice To Alarm User:** Upon receipt of the first

and second false alarm reports at an address, the City Clerk shall, by mail, attempt to notify the alarm user of the provisions of this chapter. A notice of each false alarm will be left with the alarm user by the County Sheriff's Deputy after each occurrence. (Ord. 256, 5-4-1999)

- C. Three Or More Alarms; Fee Required: Upon receipt of a third false alarm report or more at an address in one calendar year, the City Clerk shall notify the alarm user by certified mail that a fee shall be paid within thirty (30) calendar days after receipt of the notice. The fee amount shall be as set forth by ordinance¹. If the fee is not collected within ninety (90) days after notification, the fee shall be certified to the property taxes for the upcoming year.
- D. Determination Of Occurrence Of False Alarm: The alarm user may submit a written response within thirty (30) days of receipt of notice to the City Clerk to explain the cause of the alarm activation. If the City Clerk determines 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. The decision of the City Clerk may be appealed in writing to the City Council. (Ord. 256, 5-4-1999; amd. 2003 Code)

5-5-4: **VIOLATION; PENALTY:** Any person who willfully violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law. (Ord. 256, 5-4-1999; amd. 2003 Code)

¹ See subsection 1-7-3A of this code.

CHAPTER 6

NOISE CONTROL

SECTION:

- 5-6-1: Definitions
- 5-6-2: Noises Prohibited
- 5-6-3: Hourly Restrictions On Certain Operations
- 5-6-4: Receiving Land Use Standards
- 5-6-5: Administration; Testing Procedures, Studies, And Noise Impact Statements
- 5-6-6: Enforcement; Penalties

5-6-1: **DEFINITIONS:** Words and phrases defined in this section have, when used in this chapter, the meanings below. Any other word or phrase used in this chapter, and defined in regulations of the Minnesota Pollution Control Agency (MPCA) Noise Pollution Control Rules Chapter 7030, has the meaning given in those regulations.

AIR CIRCULATION

DEVICE: Mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.

L10: A sound level, expressed in decibels (dBA) which is exceeded ten percent (10%) of the time for a one hour period, as measured by a sound meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using generally accepted test procedures adopted by the MPCA.

L50: A sound level, expressed in decibels (dBA), which is exceeded fifty percent (50%) of the time for a one hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using generally accepted test procedures adopted by the MPCA.

PERSON: An individual, firm, partnership, corporation, trustee, association, the state and its agencies and

subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees. (Amended Ord. 230, 6-17-1997)

5-6-2: **NOISES PROHIBITED:** No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, safety, or welfare of any persons or precludes their enjoyment of property or affects their property's value. The general prohibition is not limited by the specific restrictions of the following:

- A. **Motor Vehicles:** No person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency.
- B. **Horns, Audible Signaling Devices:** No person shall sound any signaling device on any vehicle except as a warning of danger, as required by Minnesota Statutes Section 169.68, as amended.
- C. **Exhaust:** No person shall discharge the exhaust, or permit the discharge of the exhaust, of any steam engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.
- D. **Defective Vehicles Or Loads:** No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
- E. **Loading, Unloading, Unpacking:** No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle in excess of the standards provided in Section 5-6-5 of the City Code¹. (Amended Ord. 427, 7-16-13)
- F. **Radios, Phonographs, Paging Systems:** No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or

¹ See subsection 12-14-11A3 of this code for specific hours.

apartment adjacent, or at a distance of fifty feet (50'), if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

- G. **Noisy Parties Or Gatherings:** When a police officer determines that a gathering is creating an excessive noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every effort to see that the disturbance is stopped.
- H. **Loudspeakers, Amplifiers For Advertising:** No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.
- I. **Adjacent To Schools, Religious Institutions And Hospitals:** No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, religious institution, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution. (Amended Ord. 230, 6-17-1997; Amended Ord. 481, 4/3/18)

5-6-3: HOURLY RESTRICTIONS ON CERTAIN OPERATIONS¹:

- A. **Construction Activities:** No person shall engage in or permit construction activities involving the use of any kind of electric powered, diesel powered or gas powered machine or other equipment which creates noise that is audible at the property line, except between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
- B. **Other Permitted Activities:**
 - 1. The following acts or noises are permitted between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. daily:
 - a. Equipment used in connection with special events or activities which are authorized, sponsored, permitted or approved in the city

¹ See also subsection 12-14-11A3 of this code, hours restricted for loading and unloading materials near residential districts.

by the City Council, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.

b. Religious institution bells, chimes or carillons, school bells, or emergency civil defense warning signals. (Amended Ord. 481, 4/3/18)

c. Antitheft devices.

d. Machines or devices for the production of sound on or in authorized emergency vehicles.

2. Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this chapter for a period not to exceed twenty four (24) hours after the work is commenced. Persons responsible for such work shall inform the Zoning Administrator or other city employee of the need to initiate such work or, if the work is commenced during non-business hours of the city, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise. (Amended Ord. 230, 6-17-1997)

5-6-4: **RECEIVING LAND USE STANDARDS:**

A. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land use category specified when measured at a point of normal human activity of the receiving land use.

TABLE 1. SOUND LEVELS BY RECEIVING LAND USE DISTRICTS

<u>Land Use Districts</u>	Day (7:00 A.M. - 10:00 P.M.)		Night (10:00 P.M. - 7:00 A.M.)	
	<u>L10</u>	<u>L50</u>	<u>L10</u>	<u>L50</u>
Residential	65	60	55	50
Commercial	70	65	70	65
Industrial	80	75	80	75

- B. These levels prescribed do not apply to noise originating on public streets and alleys, but such noise shall be subject to other applicable sections of this chapter. (Amended Ord. 230, 6-17-1997)

5-6-5: **ADMINISTRATION; TESTING PROCEDURES, STUDIES, AND NOISE IMPACT STATEMENTS:**

- A. Administrative Officer: The noise control program established by this chapter shall be administered by the City Administrator or designee.
- B. Testing Guidelines: The city shall adopt guidelines establishing the test procedures and instrumentation to be used in enforcing the provisions of Section 5-6-4 of this chapter imposing noise standards. A copy of such guidelines shall be kept on file in the Planning and Zoning Department and shall be available to the public for reference during office hours.
- C. Studies: The City Administrator or designee shall conduct such research, monitoring, and other studies related to sound as are necessary or useful in enforcing this chapter and reducing noise in the city. He or she shall make such investigations and inspections in accordance with the law as required in applying ordinance requirements.
- D. Noise Impact Statement: The City Administrator or designee may require any person applying to the city for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the officer. He or she shall evaluate each such statement and make appropriate recommendations to the Council or other agency or officer authorized to take the action or approve the license or permit applied for. (Amended Ord. 230, 6-17-1997)

5-6-6: **ENFORCEMENT; PENALTIES:**

- A. Notice Of Violation: When the city determines that a noise exceeds the maximum sound level permitted under Section 5-6-4 of this chapter, written notice of the violation shall be given to the owner or occupant of the premises where the noise originates, and such person shall be ordered to correct or remove each specified violation within such reasonable time as is prescribed in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of this chapter.
- B. Civil Remedies: This chapter may be enforced by injunction, action for abatement, or other appropriate civil remedy.

- C. Criminal Penalties: Any violation of this chapter involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, the violator shall be punished by a fine not to exceed one hundred dollars (\$100.00). Every person who violates any other provision of this chapter is guilty of a misdemeanor and shall, upon conviction, be punishable as provided in Section 1-4-1 of this code. (Amended Ord. 230, 6-17-1997; amd. 2003 Code)

CHAPTER 6

NOISE CONTROL

ARTICLE A. LOCOMOTIVE HORNS AND WHISTLES

SECTION:

5-6A-1: Findings; Intent And Purpose

5-6A-2: Sounding

5-6A-3: Violation; Penalty

5-6A-1: **FINDINGS; INTENT AND PURPOSE:** The City Council finds that the sounding of railroad locomotive horns or whistles at grade controlled intersections throughout the city has created an atmosphere that is conducive neither to the quiet enjoyment of property nor to the peace and dignity of the city. For the purposes of protecting and promoting the safety, welfare and convenience of the public, and the safety, welfare and convenience of the railroad employees operating trains in the city, and in conformance with Minnesota Statutes Section 219.567, the City Council finds it necessary to establish the following noise regulation pertaining to railroad locomotive whistles or horns. (Ord. 236, 9-1-1998)

5-6A-2: **SOUNDING OF HORNS OR WHISTLES:** No person shall sound or blow any whistle or horn of any locomotive within the city from the hours of ten o'clock (10:00) P.M. to six o'clock (6:00) A.M., except at the uncontrolled intersection of Ward Lake Drive NW, and as a warning of imminent and immediate danger to life or property. The sounding of any locomotive whistle or horn shall be prima facie evidence that it was sounded by the engineer operating the locomotive. (Ord. 236, 9-1-1998)

5-6A-3: **VIOLATION; PENALTY:** Any person who violates this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to prevailing state laws. (Ord. 236, 9-1-1998)

CHAPTER 7

PRIVATE AIR FIELDS AND ULTRA-LIGHT ACTIVITIES

SECTION:

- 5-7-1: Findings And Intent
- 5-7-2: Purpose And Implementation
- 5-7-3: Definitions
- 5-7-4: Permit Requirements For Private Airfields
- 5-7-5: General Requirements

5-7-1: **FINDINGS AND INTENT:** The city finds it necessary to regulate private airfields and ultra-light activity to protect the safety and general welfare of residential neighborhoods. It is the intent of this chapter to establish standards for the operation of airfields, aircraft and ultra-lights. (Ord. 261, 2-5-2002)

5-7-2: **PURPOSE AND IMPLEMENTATION:** Through the adoption and enforcement of this chapter, the city shall protect the general health, safety, and welfare of its residents by providing standards that balance the need to preserve the health, safety and general welfare of residential neighborhoods with the rights of private property owners. (Ord. 261, 2-5-2002)

5-7-3: **DEFINITIONS:**

AIRCRAFT

OPERATOR: Any person involved in flight or ultra-light activity from a private airfield in the city.

PRIVATE AIRFIELD: Any property within the city that is used, or intended to be used, for the landing and takeoff of aircraft or ultra-lights, and includes its buildings and facilities, if any.

ULTRA-LIGHT VEHICLE: A recreational aircraft defined by Title 14 of the Federal Code of Regulations. (Ord. 261, 2-5-2002)

5-7-4: **PERMIT REQUIREMENTS FOR PRIVATE AIRFIELDS:**

- A. **Permit Required:** It shall be unlawful for any person to directly or indirectly operate a private airfield within the city without obtaining an administrative permit as defined by this chapter. A person who operates a private airfield without a valid permit issued by the city shall be guilty of a misdemeanor offense.

- B. **Pre-application Requirements:** The following must be completed before the city will accept an application for an administrative permit:
 - 1. The applicant shall hold a neighborhood meeting after notifying the city and residents within five hundred feet (500') of the property.

 - 2. The applicant shall work with the Minnesota Department of Transportation Division of Aeronautics and/or the Federal Aviation Administration to complete an operations plan that, at a minimum, includes the following information:
 - a. A site plan drawn to scale indicating the location of property lines, landing strip and structures.

 - b. An approach/departure route plan illustrating aircraft traffic routes that conform to FAA standards.

 - c. A letter from the Minnesota Department of Transportation Division of Aeronautics and/or the Federal Aviation Administration summarizing their review and recommendations.

 - d. An informational handout describing the requirements and limitations of the site. The handout shall include a map indicating congested areas as defined by the FAA.

 - e. All aircraft or ultra-light operators shall demonstrate to the city, upon request, that the aircraft or ultra-light operator has in effect a liability insurance policy in the minimum amounts required by Minnesota Statutes Section 360.59, Subdivision 3. The Andover Review Committee may require modifications to the operations plan based on the review criteria of this chapter.

- C. **Application Submittal Requirements:**
 - 1. All requirements of Section 12-15-6 of this code.

 - 2. The following additional materials are required to be submitted:

- a. An operations plan as described by this chapter.
- b. A letter from the applicant describing the proposed use of the property. (Ord. 261, 2-5-2002)

5-7-5: **GENERAL REQUIREMENTS:**

- A. Site Review: The city shall review the proposed site to determine whether the site is appropriate for this type of activity. The city may determine that the site is not appropriate for this type of use. Review criteria include, but are not limited to:
 - 1. The size of the site.
 - 2. The land uses that surround the site.
 - 3. The potential impact on adjacent properties.
 - 4. Information presented by the public.
 - 5. The Comprehensive Plan.
- B. Recreational Use Only: Private airfields shall be used for recreation purposes only and shall not be operated as a commercial business.
- C. Informational Handout: The informational handout shall be distributed to anyone who intends to use the site under the conditions of the administrative permit and this chapter.
- D. Landscaping And Screening: The city may require additional landscaping or screening to screen and buffer incompatible off-site impacts of the proposed use on adjacent property and the surrounding neighborhood.
- E. Conditions Of Permit: The Andover Review Committee may impose conditions to the approval of a Conditional Use Permit.
- F. Amendments To Permit: Holders of an administrative permit may propose amendments to the approved permit at any time, subject to the procedures of Section 12-15-6 of this code. No significant changes in the circumstances or scope of the use may be undertaken without the approval of those amendments by the Andover Review Committee. Significant changes include, but are not limited to, hours of operation, number of aircraft, expansion of landing and takeoff area, and other operation modifications resulting in increased activities and traffic, and the

like. The City Administrator or duly appointed designee must determine what constitutes significant change. The Andover Review Committee may approve significant changes and modifications to an administrative permit, including the application of new or revised conditions.

- G. Certification Of Compliance: Upon request by the City Administrator or duly appointed designee, the holder of an administrative permit shall be required to certify that the use, building and site are in conformance with the administrative permit and city codes.
- H. Failure To Comply: If the holder of the permit fails to comply with any of the terms imposed by the administrative permit, the city may impose penalties or discipline for noncompliance, which may include revocation of the permit.
- I. City Action On Permit: Upon action by the Andover Review Committee, any administrative permit for any airfield within the city may be reviewed, amended, or revoked. (Ord. 261, 2-5-2002)

CHAPTER 8

ULTIMATE FIGHTING

SECTION:

5-8-1: **DEFINITION AND PURPOSE:** Ultimate fighting is an activity, regardless of how named or described, of any form of entertainment, where the primary practice involves individuals engaged in physical contact by striking an opponent with hands, feet or body. This shall include, but not be limited to, any contact where kicking, punching, martial arts, or submission holds are permitted. The City Council finds that the practice of ultimate fighting is dangerous and puts individuals and the public health, safety and welfare at great risk. (Ord. 362, 2-19-2008)

5-8-2: **PROHIBITED CONDUCT:** It shall be unlawful in any public or private building or place to organize, permit, be present at, or to participate in the practice of ultimate fighting. Officially sanctioned and regulated boxing, martial arts, wrestling and team sports in which physical contact is incidental to the primary purpose of the game such as hockey, basketball, volleyball, soccer, baseball, football and softball, are not included among activities prohibited by this section. (Ord. 362, 2-19-2008)

CHAPTER 9

TRAPPING OF ANIMALS

SECTION:

5-9-1: Trapping of Animals

- A. Definitions: Trapping is defined as the use of any unattended mechanical device which is designed, used or set for the purpose of capturing, snaring, holding or killing any animal; provided, however, that it shall not include:
 - 1. Cage-type traps used for the control of nuisance animals;
 - 2. Any mechanical device which is specifically designed or primarily used for capturing, killing or controlling mice, rats, moles and other small rodents.
- B. Trapping Prohibited on Round Lake: No person shall trap animals on Round Lake (DNR ID #2-89P) in the City of Andover unless acting in response to a wildlife management concern with the approval of the City Administrator or designee, in response to a wildlife management concern by a commercial wildlife control operator possessing a current Minnesota DNR off-season permit. Such trapping shall be in full compliance with State Statutes and regulations of the Minnesota DNR.
- C. Exceptions: Trapping of animals may be performed on private property with the permission of the property owner. (Ord. 433, 11-19-12)

CHAPTER 10

DRUG PARAPHERNALIA

SECTION:

- 5-10-1: Authority
- 5-10-2: Definitions
- 5-10-3: Factors To Be Considered In Determining If An Object Is Drug Paraphernalia
- 5-10-4: Possession Of Drug Paraphernalia Prohibited
- 5-10-5: Manufacture Or Delivery Of Drug Paraphernalia Prohibited

5-10-1: **AUTHORITY:** Pursuant to authority granted by Minnesota Statutes, Section 152.205.

5-10-2: **DEFINITIONS:** For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DRUG PARAPHERNALIA: All equipment, products, and materials of any kind which are used, primarily used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152, as it may be amended from time to time. Drug paraphernalia does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes. The term drug paraphernalia includes, but is not limited to:

- (1) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

- (2) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (3) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which controlled substances can be derived;
- (4) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (5) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (6) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (7) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (8) Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances;
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances;
- (11) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, which shall include, but not be limited to the following:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Objects commonly referred to as roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, which has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;

- g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers; and
- (12) Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.

5-10-3: **FACTORS TO BE CONSIDERED IN DETERMINING IF AN OBJECT IS DRUG PARAPHERNALIA:**

In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substance and/or drug paraphernalia;
- (3) The proximity of the object, in time and space, to a direct violation of this section;
- (4) The proximity of the object to any controlled substance;
- (5) The existence of any residue of a controlled substance on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to any person whom he or she knows, or should reasonably know, intends to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation, of this act shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;

- (10) The manner in which the object is displayed for sale;
- (11) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
- (12) The existence and scope of any legitimate use for the object in the community;
- (13) Expert testimony concerning its use;
- (14) Whether the owner, or any one in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products; and
- (15) The actual or constructive possession by the owner or a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.

5-10-4: **POSSESSION OF DRUG PARAPHERNALIA PROHIBITED:** It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152, as it may be amended from time to time. Any violation of this section is a petty misdemeanor.

5-10-5: **MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED:** It is unlawful for any person to deliver, possess with intent to deliver, sell, possess with intent to sell, or manufacture with intent to deliver or sell, drug paraphernalia, if that person knows, or under circumstances where one reasonably should know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152. Any violation of this section is a misdemeanor.

