

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS**' 90.01 POUND ESTABLISHED.**

The Common Council shall have the power to establish a public pound. If the Common Council does not establish a pound, the Chief of Police shall place any impounded animals with some suitable person at the expense of the city.

(Prior Code, ' 1.0101)

' 90.02 CERTAIN ANIMALS PROHIBITED.

No persons shall allow, bring, keep or maintain, into or within the corporate limits of this city, whether under control or at large, any horse, cow, mule, swine, sheep, goats, fowl and pigeons, raccoon, or fox, except as otherwise provided in § 90.03 or § 90.21.

(Prior Code, § 1.0102) Penalty, see § 90.99

' 90.03 EXCEPTIONS.

The animals mentioned in the previous section shall be allowed within the corporate limits of this city only when:

(A) They are used or are a part of a legally authorized circus, menagerie or carnival;

(B) They are used in or are a part of a legally authorized parade, provided that such animals shall only be allowed within the limits of said city for said purpose for the length of time necessary to participate in said parade;

(C) They are in the process of being transported from one area outside the city limits to another, in which case they shall be in constant supervision and control of the owner, manager or driver and such transporting shall be done with all due speed and care;

(D) They are on the premises of a duly licensed stock exchange, livestock sale ring or veterinarian hospital;

(E) They are a part of a legally authorized livestock show or exhibition;

(F) They are being ridden or used for recreational purposes;
(Prior Code, ' 1.0103)

' 90.04 CRUELTY TO ANIMALS.

No person shall, within the limits of this city, cruelly or immoderately beat any animal or wantonly or maliciously torture or injure any animal in any way. No animal owner or shall neglect to properly take care of or feed his or her animal(s).

(Prior Code, ' 1.0104) Penalty, see ' 90.99

' 90.05 POISONING ANIMALS.

No person shall willfully or maliciously expose any poisonous substance with intent that the same shall be eaten or drunk by any animal which is the property of another person.

(Prior Code, ' 1.0105) Penalty, see ' 90.99

' 90.06 LIMITATION ON ANIMALS.

No living unit within the city shall contain more than three licensed dogs, three licensed cats, three rabbits, three licensed fox, and three raccoons, all of which are over the age of six months.

For the purpose of this section, “living unit” is defined as a household which is billed separately for water service by the city. “Animals” as used in this section excludes indoor domesticated birds; indoor domesticated reptiles, amphibians and fish; and indoor domesticated mammals other than dogs, cats, rabbits and fox..

A violation of this section is declared to constitute a nuisance per se and otherwise a violation of this code..

Any owner who owns or maintains more than the number of animals allowed and as defined in this section prior to June 1, 2020, may keep such animals, upon satisfying licensing requirements. Once such owner’s animals die or leave the city, the animals may not return or be replaced until the owner comes into compliance with the animal limit as indicated herein.

(Prior Code, § 1.0106) Penalty, see § 90.99

' 90.07 FEEDING OF BIG GAME ANIMALS PROHIBITED.

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It shall be unlawful for any person to set out any grass, lawn cuttings, alfalfa, hay, grain, minerals, salts, fruits, vegetables, nuts or commercial animal feed or food supplement for the purpose of the consumption by any big game animal, with the intention of providing such animals with supplementary nutrition or dietary enhancement or with the intention of attracting any big game animal for viewing. For the purpose of this section, “big game animal” shall be defined as all cloven-hoofed wild animals, mountain lion and turkey.

(Prior Code, ' 1.0107) Penalty, see ' 90.99

§ 90.08 SANITARY CONDITION REQUIRED.

A building, enclosure, or property where any animal is kept shall be maintained and kept in a clean, non-odorous, and sanitary condition. (Added 6-1-2020) Penalty, see § 90.99

LICENSING ANIMALS**' 90.20 DEFINITIONS.**

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

AT LARGE. Any animal shall be deemed to be at large when he or she is off the property of his or her owner and not under control of a competent person.

OWNER. Any person, group of persons or corporation owning, keeping or harboring an animal.

RESTRAINT. A dog, animal of the dog kind, or fox is under restraint if he or she is controlled by a leash, at heel beside a competent person and obedient to that person’s commands, on or within the property limits of its owner or keeper.

(Prior Code, ' 1.0201)

' 90.21 LICENSE REQUIRED.

It shall be unlawful for any person within the city to keep, maintain, or have in his or her custody or control any dog, animal of the dog kind, or fox without first having obtained a license from the Finance Officer as hereinafter provided.

(Prior Code, § 1.0202) Penalty, see § 90.99

' 90.22 APPLICATION.

- (1) Any person desiring to keep, maintain, or have in his or her custody or control, by himself or herself or agent within the city, any dog, animal of the dog kind, or fox shall on or before May 1 in each year make application for a license to the Finance Officer to keep such animal.
- (2) As to a request regarding fox, the City Council will grant or deny such license based upon the following factors:
 - a. The fox is appropriately licensed by the State of South Dakota;
 - b. The fox is domesticated and not wild;
 - c. The fox has had a chip embedded to identify it and its owner;
 - d. The fox will not be used for breeding;
 - e. The applicant's neighbors within 150 feet of the applicant's property must have no objective and reasonable objections;
 - f. The applicant has received no previous citation for an animal ordinance violation;
 - g. The applicant must send a letter to each neighbor within 150 feet to let them have the opportunity to object to Section 90.22, Subsection 2.

(Prior Code, § 1.0203) Penalty, see § 90.99

' 90.23 RABIES CERTIFICATE.

Every person who keeps, maintains or has in his or her custody or control any dog or animal of the dog kind, or fox within the city shall have such animal inoculated for the prevention of rabies at least once every two years with modified live virus, and notwithstanding any provision of law to the contrary, no person shall be issued a license tag for such animal until the person applying for the license gives to the Finance Officer, or other city official who is issuing the license tags, a certificate from a licensed veterinarian describing the animal for which the tag is being applied and certifying that the animal so described has been inoculated with the modified live virus for the prevention of rabies within two years prior to the expiration of the license tag for which said person is applying. The city's animal licensing officer shall keep and file said rabies certificate and mark each certificate with the number of the license tag issued for the animal described in the certificate.

(Prior Code, ' 1.0204) Penalty, see ' 90.99

' 90.24 FEE, TAG.

The applicant shall, at the time of making such application for license, pay to the Finance Officer a license fee in the amount determined by resolution. Upon approval of the license by City Council, it shall be the duty of the Finance Officer to furnish and deliver to the applicant a metallic tag which shall be and constitute the license above mentioned, and upon which tag shall be stamped and engraved the registered number of the animal and the year when registered. A new license must be requested and purchased each year. With the exception of fox, it shall then be the duty of the owner of the animal to place a collar around the neck of such animal, on which collar shall be securely fastened the metallic tag along with the rabies tag; provided, that in case of the loss of any tags so issued, the Finance Officer is

authorized to issue a duplicate thereof upon payment to him or her of the original cost of the same upon application being made therefor and upon satisfactory proof that such tag has been lost.

(Prior Code, § 1.0205) Penalty, see § 90.99

' 90.25 DOGS RUNNING AT LARGE.

(A) Any person who owns or has under his or her care a dog, animal of the dog kind, or fox shall not allow said animal to run at large in the city and said animal while present within the city shall either be on a leash which has been tied to an immovable object, or confined within an enclosure sufficient to keep said animal restrained from escaping such enclosure.

(B) No dog, animal of the dog kind, or fox shall be leashed to an immovable object so as to permit the animal to walk on or over any public sidewalk or street or any property of another person other than that of the owner of said animal. Any animal not confined by leash or enclosure as set forth herein is, in addition to the penalties set forth in § 90.99, hereby declared to be a public nuisance.

(Prior Code, § 1.0206) Penalty, see § 90.99

' 90.26 CATS RUNNING AT LARGE.

The owner of a cat or any other person who has a cat under his or her care or possession, shall not allow said cat to run within the city, unless said cat has been licensed pursuant to ' 90.29, and the license tag issued by the City Finance Officer is affixed to the cat. A cat with no license, or with no licenses affixed to it, shall be considered to be running at large. A cat shall be considered to be running at large if it is not within the boundaries of the property of its owner or caretaker, or its owner or caretaker is not in its immediate vicinity. An unlicensed cat running at large is hereby declared to be a public nuisance. In addition, a cat running at large may be impounded by the city.

(Prior Code, ' 1.0207) Penalty, see ' 90.99

' 90.27 IMPOUNDMENT OF CATS.

The provisions of ' ' 90.45, 90.46 and 90.47 of the revised ordinances of the city, which relate to impoundment of dogs, shall also apply to cats found running at large in the city.

(Prior Code, ' 1.0208) Penalty, see ' 90.99

' 90.28 RABIES CERTIFICATE.

Every person who owns or has the custody and care of any cat within the city, shall have said cat inoculated for the prevention of rabies at least once every two years, and shall obtain from a licensed veterinarian a certificate describing the cat and attesting to its most recent inoculation. A copy of said certificate shall be provided to the City Finance Officer and kept on file at City Hall.

(Prior Code, ' 1.0209) Penalty, see ' 90.99

' 90.29 LICENSE REQUIRED.

Every person who owns or has the custody and care of any cat within the city must obtain a license for said cat annually from the City Finance Officer. The fee to be charged for said license shall be set from time to time by the Common Council. No license shall be issued unless the application is accompanied by a rabies inoculation being previously filed with the Finance Officer. The number of the license issued to each cat shall be placed upon the rabies certificate, and the certificate shall be retained with the Finance Officer. A picture shall then be taken of the cat which shall be attached to the application and certificate. The owner, or custodian of the cat, shall be issued a license tag, which may be affixed to the cat; however, for the safety of the animal, it is not required that a cat wears a collar.(Prior Code, ' 1.0210) Penalty, see ' 90.99

ANIMAL CONTROL

' 90.40 RESTRAINT.

(A) The owner shall keep his or her animal in restraint at all times and shall not permit such animal to be at large off the premises or property of owner, unless under the control of a competent person.

(B) It shall be a public nuisance for any owner to keep or have within the city limits a dog, animal of the dog kind, or fox that chases, snaps at or attacks pedestrians, bicyclists or vehicles, or turns over garbage containers damages gardens, flowers or vegetables, or otherwise destroys property.

(C) If any animal bites or attempts to bite any person while such animal is at large, then such animal shall be conclusively presumed to be a dangerous animal or of dangerous propensities and tendencies. (Prior Code, ' 1.0301)

' 90.41 ABATEMENT OF THE NUISANCE.

Any animal within the city that becomes a public nuisance may be abated by the Chief of Police, any police officer, or animal control officer by either destroying such animal in a humane manner or seeing that such animal is permanently removed from the city limits.

Any dangerous or vicious animal having dangerous or vicious propensities and tendencies found at large after the owner has previous knowledge or notice that such animal is dangerous or vicious or has dangerous or vicious propensities and tendencies may be destroyed in a humane manner by any law enforcement officer or animal officer of the city without such officer having to catch or impound such animal.

Any animal having bitten, scratched or attacked two or more persons off the premises of the owner shall be destroyed in a humane manner by the police department.

Revised (04/2020)

(Prior Code, § 1.0302) Penalty, see § 90.99

‘ **90.42 BARKING DOGS.**

No person owning or possessing any dog, animal of the dog kind, or fox licensed or unlicensed, confined on the premises or otherwise, shall suffer or permit such dog to disturb the peace and quiet of the neighborhood by continuous barking or howling or making other loud or unusual noises. It shall be the duty of any person in possession of any such dog which disturbs the peace and quiet to dispose of the disturbance even if disposing of the dog is the only effective means.

(Prior Code, § 1.0303) Penalty, see § 90.99

‘ **90.43 ABANDONMENT OF DOGS.**

It shall be unlawful for any person to abandon any dog, animal of the dog kind, or fox upon public right of way or upon property of another within the city.

(Prior Code, § 1.0304) Penalty, see § 90.99

‘ **90.44 DOGS INFECTED WITH RABIES OR OTHER DISEASE.**

(A) Any person who shall suspect that any animal in the city is infected with rabies or hydrophobia, shall report his or her suspicions to the local police or health authorities describing the animal and giving the name of the owner, if known; and if, upon examination by the health authorities, the animal shall prove in fact to be infected with said disease, the animal may be killed by the proper authorities.

(B) When the health authorities have determined, by laboratory tests or otherwise, that an animal found in the city is infected with rabies or hydrophobia, the Mayor, upon written notice from the health authorities that the public safety and general welfare require it, by proclamation, may order that all dogs be muzzled when off the premises of the owner, be immediately seized and impounded, and may further order that all dogs found off the premises of the owner un-muzzled shall be seized, impounded and killed, except that an officer may immediately kill any such dog if with reasonable effort it cannot be seized and impounded. All dogs seized and impounded under this shall, if claimed within four days, be returned to the owner thereof without any impounding charge or costs, if not infected with hydrophobia or rabies, as shown by laboratory test or otherwise, and if so affected with said disease, such dogs may be killed.

(Prior Code, § 1.0305) Penalty, see § 90.99

‘ **90.45 IMPOUNDMENT AND DISPOSITION.**

(A) All animal found running at large shall be taken up by the Chief of Police, any police officer, or any animal control officer and impounded for a period of not more than three days. Animals impounded and not claimed by their owners at the expiration of three days may be disposed of at the discretion of the Chief of Police, any police officer, or any animal control officer.

(B) When animals are found running at large and their ownership is known to the Chief of Police, any police officer, or any animal control officer, such animals need not be impounded, but the officer may cite the owner of such animals to appear in court to answer violations of this subchapter. Immediately upon impounding animals, the Chief of Police, any police officer, or any animal control officer shall attempt to notify the owner of such animal so impounded and inform such owners of the conditions whereby they gain possession of such animals. If any owner has requested his or her animal be destroyed, the animal shall be destroyed in a humane manner at the owner's expense.
(Prior Code, § 1.0306)

‘ 90.46 REDEMPTION AND DESTRUCTION.

The owners shall be entitled to regain possession of any impounded animal upon the payment of the fees and charges provided for in this chapter. Any animal impounded under the provisions of this chapter and not reclaimed by its owner within three days may be destroyed by the Chief of Police, police officer, or animal control officer or placed in the custody of some person deemed to be responsible and suitable person to be the owner of such animal. The Chief of Police, police officer, or animal control officer may destroy any sick or injured animal which has been impounded without holding it for three days if its condition is such as makes its earlier destruction necessary or desirable.
(Prior Code, § 1.0307)

‘ 90.47 IMPOUNDMENT FEES.

Any animal impounded hereunder may be reclaimed as herein provided upon payment by the owners or person reclaiming said animal to the city, the sum of \$35 fine for the first impoundment of the animal; the sum of \$60 fine for the second impoundment of the animal; the sum of \$100 fine for the third impoundment of the animal. In addition to the foregoing, the owner of an animal impounded shall pay to the city the actual cost of kenneling the animal. Any animal impounded for the fourth time shall be destroyed and the owner shall pay to the city the cost of veterinary service incurred in destroying the animal. The city shall give the owner of the animal written notice of its intention to destroy the animal. The animal shall not be destroyed until three days after the written notice is mailed or delivered to the owner. The owner shall have the opportunity during that time to prove to the satisfaction of the city that the animal is not being impounded the fourth time. No other issue shall be relevant. If the city is satisfied that the incident constitutes a fourth impoundment, the animal shall forthwith be destroyed. The owner of an animal which is impounded by the Chief of Police, police officer, or animal control officer is liable to the city for the foregoing fees and costs, and failure to pay such fees and costs shall constitute a violation of the section, which shall be punishable by a fine of up to \$100.
(Prior Code, § 1.0308)

ENFORCEMENT**' 90.60 GENERAL ENFORCEMENT.**

The provisions of this subchapter shall be enforced by the City Police Department, Animal Control Department and the City Attorney's office.
(Prior Code, ' 1.0401)

' 90.61 INVESTIGATION.

The Chief of Police or any police officer or any animal control officer is hereby authorized and empowered to follow and enter upon, any enclosure or lot within the limits of the city in quest of any animals suspected of being affected by rabies, or, to apprehend any animal which he or she has observed to be running at large.
(Prior Code, ' 1.0402)

' 90.99 PENALTY.

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

(B) A violation of § 90.07 shall be punishable by a fine up to \$200.
(Prior Code, § 1.0107)

CHAPTER 91: NUISANCES

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GENERAL PROVISIONS

' 91.01 DEFINITION.

A *NUISANCE* is hereby defined as anything which is injurious to the health or safety or is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with comfortable enjoyment of life or property. In addition to those offenses or practices that herein are declared dangerous to the health and safety of other people and thus herein listed as nuisances, those offenses which are known to the common law and statutes of the state as nuisances may, in case the same exist within the city limits of the city, be treated as such, and proceed against as in this chapter; provided or in accordance with any other law which shall give court trying the same jurisdiction.

(Prior Code, ' 8.0101)

' 91.02 NUISANCE PROHIBITED.

No person shall create, commit, maintain or permit to be created or committed any nuisance as defined in ' 91.01.

(Prior Code, ' 8.0102) Penalty, see ' 91.99

' 91.03 NOTICE TO ABATE.

Whenever the Chief of Police or other City Official shall find that a nuisance exists within the city, he or she shall give written notice to the person creating, permitting or maintaining such nuisance to abate the same within a reasonable time as provided in such notice.

(Prior Code, ' 8.0103)

' 91.04 NONCOMPLIANCE.

If any person who has served a written notice to abate a nuisance under the provisions of this subchapter shall fail to do so within the time allowed on such notice, he or she shall be deemed guilty of a violation of this chapter.

(Prior Code, ' 8.0104) Penalty, see ' 91.99

' 91.05 ABATEMENT.

In the event that a person shall fail to abate any nuisance created, permitted or maintained by him or her following written notice to him or her to do so, the Chief of Police or other City Official shall cause such nuisance to be abated. The City may file a civil suit, as allowed by State law, to abate any nuisance and may recover expenses, including reasonable attorney fees and costs, incurred by the City in abating any nuisance from the person creating, permitting or maintain the same, or the person owning the real estate, in the same civil suit.

(Prior Code, ' 8.0105)

WEEDS, TREES, BUSHES**' 91.20 GRASS, WEEDS AND NOXIOUS VEGETATION.**

All weeds or plants declared to be primary noxious weeds or secondary noxious weeds by the State Weed Board or the state, and all other grass, ten inches or taller, or weeds suffered or allowed to grow during the growing season shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be nuisances. It shall be the duty of the occupant, person in charge of and owner of any lot in this city to keep such lot free from noxious vegetation and to cut any noxious vegetation at such time as may be necessary to prevent its growth.

(Prior Code, ' 8.0201) Penalty, see ' 91.99

' 91.21 OVERHANGING TREE LIMBS OR BUSHES DECLARED NUISANCES.

The limbs of trees or bushes hanging within less than 12 feet and within less than seven feet in height above the sidewalks or roadways on the rest of the streets are dangerous to the public health and safety of its citizens and are hereby declared a public nuisance. It shall be the duty of the owner and occupant of any lot in this city to keep all overhanging limbs of trees or bushes herein described cut down and removed on all lots owned or occupied by them, and to the middle of the street abutting the lot owned or occupied by him, her or them.

(Prior Code, ' 8.0202) Penalty, see ' 91.99

' 91.22 NOTICE TO CUT WEEDS AND REMOVE OVERHANGING TREE LIMBS.

Whitewood - General Regulations

The Street Superintendent, Chief of Police or police officers may, at the beginning of or during the growing season by written notice, served personally or by certified mail, or generally by one publication in the official newspaper, to each occupant, person in charge or owner of any lot, require all weeds, noxious vegetation and overhanging limbs upon any lot to be cut and removed within five days after giving such notice. The notice shall provide that each occupant, person in charge, or owner of any lot shall cut, and keep cut at all times during the growing season all weeds, noxious vegetation and overhanging limbs, and shall further provide that in case of failure to so cut such weeds, noxious vegetation or overhanging limbs, the city shall prosecute violations thereof. The occupant, person in charge or owner shall within five days after the publication of such notice and at all times subsequent during the growing season as may be necessary cut and keep cut all weeds, noxious vegetation and overhanging tree limbs, and any failure to do so constitute a violation hereof.

(Prior Code, ' 8.0203) Penalty, see ' 91.99

' 91.23 CITY MAY CUT WEEDS, NOXIOUS VEGETATION AND OVERHANGING TREE OR BUSH LIMBS.

If the occupant, person in charge, or owner of any lot fails to cut weeds, noxious vegetation or overhanging limbs upon any such lot as required, the city may cause such weeds, noxious vegetation or overhanging limbs to be cut, and for such weeds, noxious vegetation or overhanging limbs to be cut, and for such purpose may enter any such lot or parcel of land.

(Prior Code, ' 8.0204) Penalty, see ' 91.99

DEPOSITING AND BURNING OF FILTH, ASHES, MANURE, GARBAGE AND THE LIKE**' 91.35 DEPOSITING ON PUBLIC OR PRIVATE GROUNDS PROHIBITED.**

No person shall deposit or place any awful, filth, filthy waters, garbage, ashes, waste water, sewage, tin cans, excrement, manure (except when used for brief periods and in a proper manner as a fertilizer), decaying fruit, vegetables, fish, meat or bones, or any foul, putrid or obnoxious liquid substances (including all gasoline and petroleum or products thereof), on any private lot, public thoroughfares (including all streets, highways and sidewalks), or public grounds of this city. No person shall throw or let fall on or permit to remain on any street, alley or public ground any of the said materials while engaged in handling or removing the same.

(Prior Code, ' 8.0301) Penalty, see ' 91.99

' 91.36 MANURE.

Manure shall not be allowed to accumulate anywhere in this city, and it shall be used only in the proper manner as a fertilizer.

(Prior Code, ' 8.0302) Penalty, see ' 91.99

' 91.37 STAGNANT WATER.

No owner of any lot, or any other person responsible, shall allow the collection of any stagnant water on any lot or premises within the city.

(Prior Code, ' 8.0303) Penalty, see ' 91.99

' 91.38 DEAD ANIMALS.

No owner or possessor of any animal which shall have died, shall suffer the same to lie on any public ground, street, lane or alley, or any private lot or place within the city, nor shall any person throw or leave any such animal or any vegetable or animal matter or any slop of filth, whether solid or fluid, into any pool of water in said city, or other place, to the annoyance of any citizen of said city.

(Prior Code, ' 8.0304) Penalty, see ' 91.99

JUNK MOTOR VEHICLES**' 91.50 DECLARATION OF PUBLIC NUISANCE.**

Derelict and junk motor vehicles constitute a hazard to the health and welfare of the people of the city in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. Derelict and junk motor vehicles also constitute a blight on the landscape of the city and, therefore, are a detriment to the environment.

(Prior Code, ' 8.0401)

' 91.51 DEFINITIONS.

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

APPROPRIATE COVER. A covering which is specifically designed by the manufacturer to cover motor vehicles.

JUNK MOTOR VEHICLE. Any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is not in current running condition or has extensive damage to the body or operation apparatus, including tires and wheels, so as to make it impossible to start, operate or use said motor vehicle. The term ***JUNK MOTOR VEHICLE*** is also hereby defined as any part, including, but not limited to, hood, fenders, bumpers, wheels or axles of a vehicle.

MOTOR VEHICLE. Any self-propelled or towed vehicle including, but not limited to, automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, trailers and recreational vehicles.

(Prior Code, ' 8.0402)

' 91.52 PROHIBITION.

No owner of a junk motor vehicle shall allow said vehicle to be parked or placed upon any highways, streets or alleys in the city, except as follows:

(A) In conjunction with a regular operating repair garage or shop, which is in compliance with the zoning ordinances of the city;

(B) Unless the junk motor vehicle is wholly confined within a building;

(C) Unless the junk motor vehicle is completely screened from public view by a fence; or

(D) Unless the junk motor vehicle is completely covered with a motor vehicle cover specifically designed for that purpose.

(Prior Code, ' 8.0403) Penalty, see ' 91.99

' 91.53 REMOVAL.

Such junk motor vehicles which are parked on the highways, streets, alleys or private grounds of this city are hereby declared to be public nuisances, and the Chief of Police shall place written notice on the vehicle that it will be removed unless the owner removes the vehicle within 48 hours after the giving of the notice. Upon the expiration of the 48 hours, the Chief of Police shall cause the same to be removed, and the owner of said vehicle shall pay the cost of towing and storage of said automobile in addition to the fine and penalty herein provided, before possession is returned to the owner. The Chief of Police shall give notice of towing by certified mail to the registered owner, and if the motor vehicle is not reclaimed within 30 days and the towing and storage charges paid in full, then in that event, the city or the owner of the storage yard may dispose of said vehicle and any proceeds in excess of the towing and storage charges shall be applied to the General Fund of the city.

(Prior Code, ' 8.0404)

' 91.99 PENALTY.

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

(B) Any person convicted or violating any provisions of ' ' 91.01 through 91.05 may be punished by the following maximums penalties: a fine not exceeding \$100.
(Prior Code, ' 8.0106)

(C) In addition to ' 91.53, any person violating any of the provisions of ' ' 91.50 through 91.52 shall be subject to a fine of up to \$200.
(Prior Code, ' 8.0404)

CHAPTER 92: PARKS AND RECREATION

Section

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PARK SUPERVISORS**' 92.01 GENERALLY.**

The Mayor and members of the Common Council shall be and are hereby constituted the Board of Park Supervisors for the city.

(Prior Code, ' 10.0101)

' 92.02 RULES, REGULATIONS.

The Park Board shall have the power to make and adopt a set of by-laws, rules and regulations for the proper conduct and operation of the public recreation for the city.

(Prior Code, ' 10.0102)

' 92.03 SCOPE OF OPERATIONS.

The Park Board shall have the power to provide, operate and supervise, or cause the same to be operated and supervised, public recreation centers, playgrounds and other recreations facilities, and may conduct its activities on:

(A) Property owned or under the control and management of the city;

(B) Other public property, owned under custody of another public corporation or board, with the consent of such corporation or board; and

(C) Private property with the consent of the owner.

(Prior Code, ' 10.0103)

' 92.04 DONATIONS.

The Park Board shall have the power to accept gifts or requests for the benefit of such recreation service.

(Prior Code, ' 10.0104)

PROTECTION OF PARKS**' 92.15 PROTECTION OF PARK PROPERTY.**

It shall be unlawful for any person to deface, mar, injure, break into or in any way interfere with any house, building, structure or other property situated in any park belonging to the city.
(Prior Code, ' 10.0201) Penalty, see ' 92.99

' 92.16 PROTECTION OF TREES AND SHRUBS.

It shall be unlawful for any person to climb any tree, cut, break, pluck, root up or in any way disturb any trees, flowers, shrubs, plants or bulbs planted or growing in any public park or other public ground of the city.
(Prior Code, ' 10.0202) Penalty, see ' 92.99

' 92.17 CLOSURE OF PARKS.

(A) All public parks in the city shall be closed from the hours of 10:00 p.m. to 6:00 a.m., except for Memorial Park, which shall be closed from 11:00 p.m. to 6:00 a.m.

(B) It shall be unlawful for any person to enter the parks or remain in the parks during these hours.
(Prior Code, ' 10.0204) Penalty, see ' 92.99

GENERAL REGULATIONS

' 92.30 RUBBISH.

It shall be unlawful for any person to throw or deposit or cause to be thrown or deposited, any paper, tin cans, rubbish or garbage of any kind in any such park or in or about any place set apart for swimming, or body of water or stream within or adjoining any park under the control of the Board of Park Supervisors of said city.
(Prior Code, ' 10.0301) Penalty, see ' 92.99

' 92.31 PARKING.

It shall be unlawful for any person to lead or drive any horses or other animals or any vehicle or motor vehicle over or upon any of the grass plots or planting space of any public park, except at such places as may be provided for the parking of vehicles.

(Prior Code, ' 10.0302) Penalty, see ' 92.99

' 92.32 SELLING MERCHANDISE.

It shall be unlawful for any person to do any peddling or to sell or offer for sale any goods, wares or merchandise in any of the public parks of the city, unless such person has been granted permission for such purpose by the Board of Park Supervisors.

(Prior Code, ' 10.0303) Penalty, see ' 92.99

CONDUCT WITHIN PARK**' 92.45 DISORDERLY CONDUCT.**

No person shall be disorderly, unchaste, or lewd or habitually loaf or sleep on the ground or benches or engage in any quarrel or fight, or make or assist in making any disorderly noise or riot or disturbance of the peace within the limits of any park under the control of the Board of Park Supervisors of the city. Penalty, see ' 92.99

' 92.46 OVERNIGHT CAMPING.

It shall be unlawful for any person to camp overnight in any park belonging to the city. (Prior Code, ' 10.0402) Penalty, see ' 92.99

PROMOTION OF TREES AND VEGETATION; TREE BOARD**' 92.60 PURPOSE.**

The Common Council finds and determines that, in order to protect existing neighborhoods and provide for sensitive and compatible fill-in development in existing commercial areas, the Tree Board shall be charged with developing a city tree plan, which will address, regulate and advise the planting, removal and maintenance of trees, bushes, shrubs and other woody vegetation in city parks, public places and city rights-of-way to accomplish:

(A) Ensuring public safety;

(B) Protection and increase of property rights and values;

(C) Enhancement and conservation of the city=s aesthetic environment and physical characteristics of the land;

(D) Management of tree resources to ensure further growth; and

(E) Protection and enhancement of the quality of life and general welfare of the city.
(Prior Code, ' 10.0501)

' 92.61 DEFINITIONS.

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

BOARD. The Whitewood Tree Board.

PARK TREES. The trees, shrubs, bushes and all other woody vegetation on public lands.

PEST. Any organism, insect, rodent or other agent that damages or cause abnormal growth, disease or death of any tree, shrub, bush or woody vegetation.

STREET TREES. Trees, bushes and all other woody vegetation on lands lying within municipal rights-of-way.
(Prior Code, ' 10.0502)

' 92.62 ESTABLISHMENT OF TREE BOARD.

(A) There is hereby established a City Tree Board, which shall consist of three residents of the city, appointed by the Mayor with the approval of the Common Council.

(B) The county agent and City Public Works Director shall serve as ex-officer members of the Board.
(Prior Code, ' 10.0503)

' 92.63 TERMS, COMPENSATION AND ORGANIZATION OF BOARD.

(A) The terms of the office of the Board members shall be three years. Members appointed to the Board shall be appointed in staggered terms. In the event a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of that term.

(B) Members of the Board shall serve without compensation.

(C) The Board shall choose its own officers and shall keep a journal of the proceedings. Two members of the Board shall constitute a quorum.

(Prior Code, ' 10.0504)

' 92.64 DUTIES OF MEMBERS OF BOARD.

(A) The duties of the City Tree Board are as follows.

(1) The Board shall develop a city tree plan.

(2) The Board, when requested by the Common Council, shall consider, investigate, make findings, reports and recommendations upon any special matter or question coming within the scope of its work.

(3) The Board shall develop a list of trees and shrubbery suitable for street trees.

(B) Any decision of the Tree Board may be appealed to the Common Council within 30 days of such decision. The Common Council shall consider the appeal at its next Common Council meeting. The decision of the Common Council shall be final and shall not be subject to appeal.

(Prior Code, ' 10.0505)

' 92.65 REGULATION OF STREET AND PARK TREES.

The following shall apply to street and park trees within the city.

(A) Care of street trees shall be the responsibility of the owner of the abutting private property.

(B) It shall be unlawful for any person to top any street or park tree. **TOPPING** is defined as the cutting back of limbs to shrubs more than six inches in diameter, or trimming within the crown to such degree as to remove the normal canopy and storms or other causes, or interfering with utility services or similar obstructions may be topped with approval of the Tree Board.

(C) Stumps of street and park trees shall not project above the surface of the ground.

(D) The city shall have the right to plant, prune, maintain or remove trees, plants and shrubs within right-of-way and on public grounds.

(E) The city may remove or cause to be removed, any tree or part thereof which is infested with any pest or is in an unsafe condition or is injurious to sewers, electric power lines, gas lines, water lines or other public improvements or which interferes with public walkways, streets, highways or alleys.
(Prior Code, ' 10.056) Penalty, see ' 92.99

' 92.66 STORAGE OF DEAD OR CUT TREES WITH ANY CONTAGIOUS DISEASE OR PEST INFESTATION.

No person shall store or permit the accumulation of any elm wood in the city. No person shall store any tree or part thereof known to harbor or contain any pest infestation or declare to contain any pest infestation.
(Prior Code, ' 10.0508) Penalty, see ' 92.99

' 92.67 INTERFERENCE.

It shall be unlawful for any person to prevent, delay or interfere with the city or any of its agents engaged in the planting, cultivation, mulching, pruning, spraying, inspecting or removing of any trees within the city as authorized herein.
(Prior Code, ' 10.0509) Penalty, see ' 92.99

' 92.68 CARE AND MAINTENANCE OF CITY RIGHT-OF-WAY.

The care, mowing and maintenance of any city right-of-way including, but not limited to, the area between the property line and the street curb shall be the responsibility of the owner, manager or lessee of the abutting property. Such persons are jointly and severally liable for the care, maintenance and mowing.
(Prior Code, ' 10.0510) Penalty, see ' 92.99

' 92.99 PENALTY.

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

(B) Any person convicted of violating any provisions of 92.15 through 92.17 may be fined \$500, in addition to any other penalties provided for by this chapter.
(Prior Code, ' 10.0203)

(C) Any person who violates 92.45 through 92.46 shall be punished by a fine of not more than \$500.

(Prior Code, ' 10.0403)

CHAPTER 93: STREETS AND SIDEWALKS

Section

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-
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NAMES OF STREETS AND AVENUES**' 93.001 GENERALLY.**

The names of the streets and avenues of the city shall be known and designated by those names shown upon the several plats of the divisions and subdivisions of the city within its corporate limits and as may be changed by ordinance or resolution by the Common Council, as filed and of record in the office of the City Finance Officer.

(Prior Code, ' 11.0101)

' 93.002 SYSTEM OF NUMBERING.

The dwelling houses, business places and frontages shall be and they are hereby numbered as shown by the records and files in the office of the City Finance Officer.

(Prior Code, ' 11.0102)

' 93.003 ODD AND EVEN NUMBERS; HOW ARRANGED.

The odd numbers shall be on the left-hand side and the even numbers shall be on the right-hand side when facing in a northerly direction.

(Prior Code, ' 11.0103)

' 93.004 SIZE AND COLOR OF NUMBERS.

It is the duty of every person owning or occupying any house or other building constructed in the city fronting or abutting upon any street or avenue, to place or fix upon the door in front of said building in plain painted, printed or metallic numerals of not less than three inches in height, the proper number assigned to each house or other building and to thereafter keep and maintain the numbers so placed or affixed so that the same will be at all times visible and legible by persons in the street immediately in front of such house or building.

(Prior Code, ' 11.0104)

' 93.005 CERTIFICATES OF NUMBERS.

All certificates of correct numbers will be furnished by the City Finance Officer.

(Prior Code, ' 11.0105)

' 93.006 TIME LIMIT FOR NUMBERING.

All buildings which may at any time hereafter be built shall be so numbered within ten days after such building shall become occupied as a dwelling or place of business.

(Prior Code, ' 11.0106)

SNOW AND ICE REMOVAL**' 93.020 PUBLIC NUISANCE.**

Snow and ice permitted to gather and remain upon the sidewalks of the city is dangerous to the safety of its citizens and others using said sidewalks, and is hereby declared unlawful.
(Prior Code, ' 11.0201) Penalty, see ' 93.999

' 93.021 REMOVAL BY OWNER.

The owner or occupant of any building or any lot, parcel or plot of ground fronting or abutting on any sidewalk shall clear said sidewalk of snow and ice to the full width of the sidewalk within 24 hours after it has fallen or formed. Snow removal as required by this Title prohibits any person from placing or piling any snow within the public ROW of any street or alley after the City has plowed the street or alley. In addition, it is a violation of this ordinance for any person to place or pile snow onto the property of another without the owner's permission.

(Prior Code, ' 11.0202) Penalty, see ' 93.999

' 93.022 REMOVAL BY THE CITY; COST.

If the occupant, owner or agent of any building or lot shall neglect or refuse to comply with this subchapter, the city may at once proceed to clear the sidewalk of snow and ice by the employees, agents or officers of the city by contract or otherwise as they may select under the supervision of the Street Commissioner or other Common Council members, and may assess the reasonable necessary costs and expenses thereof against each lot, lots or fractions thereof.

(Prior Code, ' 11.0203) Penalty, see ' 93.999

' 93.023 COLLECTION OF CITY'S COSTS.

The costs incurred by the city in removing snow or ice under the provisions of this chapter shall be reported to the Common Council, and the same shall be levied and assessed as a special tax, and shall become due and delinquent, bear the same rate of interest to be sold at the same time and in the same manner as provided for other special taxes in this city.

(Prior Code, ' 11.0204)

GENERAL REGULATIONS

' 93.035 UNLAWFUL TO OBSTRUCT STREETS, SIDEWALKS AND THE LIKE.

(A) It shall be unlawful for any person to place, cause or maintain any obstruction of whatsoever manner in any street, sidewalk, public way, alley, public grounds or public property in the city without written consent of the Common Council.

(B) The Building Official is authorized to grant permission in writing to any person to deposit and keep material for building, in any public street, road, alley or other public grounds adjacent to the building to be erected or repaired, for a space of time not exceeding six consecutive months. Such permission shall not excuse the obstruction or occupancy with such material of more than one-third in width of any sidewalk or more than one-third in width of the right-of-way of any street or road or place of such material in such a way as to impede the free flow of water in side gutter.

(Prior Code, ' 11.0301) Penalty, see ' 93.999

' 93.036 HINDERING STREET IMPROVEMENTS.

No person shall hinder or obstruct the employees of the city in lawfully making any improvements in any public street, road, alley, sidewalk or on any public ground of this city, nor shall any person without proper authority tear up, break or injure any pavement, crosswalk, sidewalk or other improvement in any public street, road, sidewalk, alley or public ground in said city.

(Prior Code, ' 11.0302) Penalty, see ' 93.999

' 93.037 NO BURNING ON STREETS.

It shall be unlawful for any person to burn any trash, lumber, leaves, grass, straw or other material of any kind upon, or to light or have a fire of any kind upon, or to allow any gasoline or petroleum products upon, or to place any dirt, trash or any other kind of material upon any street, alley or sidewalks in this city.

(Prior Code, ' 11.0303) Penalty, see ' 93.999

' 93.038 WEIGHT LIMITS ON CITY STREETS.

(A) No motor vehicle or combination of motor vehicles operating on Laurel Street from Meade Street south to the city limits may have a weight in excess of 12,000 pounds on any one axle.

(B) Any peace officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to weigh or cause to have weighed by means of a portable or stationary scales and may require that such vehicle be driven to the nearest scales in the event such scales are within five miles.

(C) Whenever an officer upon weighing a vehicle and load as provided in division (B) above determines that the weight is unlawful such officer shall require the driver to stop the vehicle in a suitable place adjacent to the place of weighing. The vehicle shall there remain until such portion of the load is removed as may be necessary to reduce the weight to the maximum specified in division (A) above. The unloading of any required portion of such load shall be the duty and at the sole risk of the owner or operator of such vehicle and all material unloaded shall be cared for by and continue to be at the sole risk of such owner or operator.

(Prior Code, ' 11.0304) Penalty, see ' 93.999

CONSTRUCTION AND MAINTENANCE OF SIDEWALKS

' 93.050 SUPERVISION OF SIDEWALK CONSTRUCTION.

The building and construction of all sidewalks upon or along any street shall be done under the direct supervision of the Building Inspector, who shall see that said sidewalk conforms to the specifications hereinafter referred to. Before any sidewalk is constructed upon or along a street by any contractor or person or owners of abutting property, said contractor or person shall first secure a permit therefor from the Building Inspector. The construction of all sidewalks shall be according to grade and lines furnished by the Building Inspector.

(Prior Code, ' 11.0401) Penalty, see ' 93.999

' 93.051 SPECIFICATIONS.

Sidewalks shall be five feet back from, and parallel to the curb. If there is no curb, a sidewalk shall be parallel to and adjacent to the lot line. Sidewalk width shall be 60 inches. Sidewalks shall have a two-inch gravel base depth and a three and a one-half inch concrete depth. The location and width of the sidewalk shall be included in the permit, which shall be issued by the Building Inspector to the applicant. It shall be unlawful for any sidewalk to be built without a permit, or for any sidewalk to fail to be in conformity with the permit issued for said sidewalk.

(Prior Code, ' 11.0402) Penalty, see ' 93.999

' 93.052 APPEAL OF BUILDING INSPECTOR'S DECISION.

A person feeling aggrieved by the decision of the Building Inspector on an application to build a sidewalk with regard to location and width may appeal the decision of the Building Inspector under the same procedure provided for appeals of the Building Inspector under this subchapter.

(Prior Code, ' 11.0403)

' 93.053 MATERIAL.

All sidewalks inspected within the city shall be made of concrete.
(Prior Code, ' 11.0404) Penalty, see ' 93.999

' 93.054 CONSTRUCTION AND REPAIR.

Whenever the Common Council shall deem it necessary to construct, reconstruct or repair any sidewalk, it shall, by resolution, authorize the City Finance Officer to cause a notice in writing to be given to all resident owners and occupants of any lot or parcel of land fronting or abutting on such sidewalks, to construct, reconstruct or repair the same at his or her own expense within the time designated in said notice. The City Finance Officer shall include on said notice, upon the advice of the Building Inspector, specifications concerning the locations of all sidewalks to be constructed under the provisions of this section. In case said owners are nonresidents and cannot be found, then such notice shall be given to such nonresident owners by publications in the official paper of the municipality once each week for two successive weeks. Such notice shall set forth what work is to be done, the locations for all sidewalks to be constructed, and the character of the same, and shall name the owner of any such abutting property and shall also specifically describe the lots or parcel of ground fronting or abutting the sidewalk which is to be constructed or repaired.
(Prior Code, ' 11.0405) Penalty, see ' 93.999

' 93.055 OWNER=S FAILURE TO COMPLY.

If such sidewalks are not constructed, reconstructed or repaired in the manner or within the time prescribed, the Common Council may by resolution, cause the same to be done and the cost thereof assessed against the lots or parcels of land fronting or abutting upon the sidewalks so constructed, reconstructed or repaired and the cost of such work shall be assessed and certified in the manner as provided by the state.
(Prior Code, ' 11.0406)

' 93.056 DEFACING SIDEWALKS.

No person shall willfully deface, paint upon or mark upon or cause the same to be done upon any of the sidewalks of the city.
(Prior Code, ' 11.0407) Penalty, see ' 93.999

' 93.057 ELEVATIONS DETERMINED BY THE USGS.

All the elevations given in this subchapter be elevations above sea level determined from data given by the U.S. Geological survey, and that the bench mark established at the southwesterly corner of the intersection of Meade and Pine Streets, be taken as the starting point, its elevation according to the above data being 3,969.95 feet.

(Prior Code, ' 11.0408)

' 93.058 SIDEWALK GRADE ESTABLISHED.

The sidewalk grade at the property line on the south side of Meade Street extending from a point at the northwesterly corner of Lot 19, Block 27, where the same intersects said Meade Street which point equals 3,674.94 feet above sea level; thence easterly along the south side of said Meade Street with the elevations in feet above sea level at the northwesterly corner of the lots in said Block 27 as the same intersects Meade Street, is hereby established as follows: Lot 20 - 3,674.21 feet; Lot 21 - 3,673.48 feet; Lot 22 - 3,672.76 feet; Lot 23 - 2,672.04 feet; Lot 24 - 3,671.32 feet; Lot 25 - 3,670.60 feet; Lot 26 - 3,669.87 feet; Lot 27 - 3,669.15 feet; Lot 28 - 3,668.43 feet; Lot 29 - 3,667.71 feet; Lot 30 - 3,666.99 feet; and northeasterly corners of Lot 30 - 3,666.27 feet, and beginning at the northwesterly corner of Lot 19, Block 28, where the same intersects said Meade Street, which point equals 3,663.51 feet above sea level; thence easterly along the south side of said Meade Street with the elevations in feet above sea level at the northwesterly corner of the lots in said Block 28, as the same intersects Meade Street, is hereby established as follows: Lot 20 - 3,662.74 feet; Lot 21 - 3,661.96 feet; Lot 22 - 3,661.19 feet; Lots 23 - 3,660.41 feet; Lot 24 - 3,659.64 feet; Lot 25 - 3,659.38 feet; Lot 26 - 2,659.11 feet; Lot 27 - 3,658.85 feet; Lot 28 - 3,658.59 feet; Lot 29 - 3,658.32 feet; Lot 30 - 3,658.06 feet; and northeasterly corner of Lot 30 - 3,657.80 feet.

(Prior Code, ' 11.0409)

' 93.059 OTHER SIDEWALK GRADES ESTABLISHED.

The sidewalk grade at the property line then north side of Meade Street extending from a point at the southwesterly corner of Lot 19, Block 23, where the same intersects said Meade Street which point equals 3,675.00 feet above sea level; thence easterly along the north side of said Meade Street with the elevations in feet above sea level at the southwesterly corner of the Lots in said Block 23 as the same intersect Meade Street, is hereby established as follows: Lot 18 - 3,674.08 feet; Lot 17 - 3,674.17 feet; Lot 16 - 3,672.26 feet; Lot 15 - 3,671.35 feet; Lot 14 - 3,670.34 feet; Lot 13 - 3,669.33 feet; Lot 12 - 3,668.32 feet; Lot 11 - 3,667.31 feet; Lot 10 - 3,666.69 feet; Lot 9 - 3,666.06 feet; Lot 8 - 3,665.43 feet; and southeasterly corner of Lot 8 - 3,664.80 feet, and beginning at the southwesterly corner of Lot 10, Block 22 where the same intersects said Meade Street, which point equals 3,661.90 feet above sea level; thence easterly along the north side of said Meade Street with the elevations in feet above sea level at the southwesterly corners of Lots in said Block 22, as the same intersects Meade Street, is hereby established as follows: Lot 9 - 3,661.31 feet; Lot 8 - 3,660.72 feet; Lot 7 - 3,660.13 feet; Lot 6 - 3,659.54 feet; Lot 5 - 3,658.95 feet; Lot 4 - 3,658.36 feet; Lot 3 - 3,657.77 feet; Lot 2 - 3,657.18 feet; Lot 1 - 3,656.59 feet; and southeasterly corner of Lot 1 - 3,656.00 feet.

(Prior Code, ' 11.0410)

' 93.060 CURB AND GUTTER GRADES ESTABLISHED.

The top of curb and outer edge of sidewalk grade be and is hereby established as 0.10 feet below the grade established at the property line of the sidewalk by this subchapter, and that the gutter grade be and is hereby established as 0.70 feet below the grade established at the property line of the sidewalk by this subchapter.

(Prior Code, ' 11.0411) Penalty, see ' 93.999

' 93.061 INSTALLATION OF WHEELCHAIR CURB RAMPS.

All new businesses or residential area shall require the installation of wheelchair ramps to the specifications and designs consistent with those specifications prepared by the State Department of Transportation. Whenever any existing curbs or gutters and sidewalks are replaced, the city or private person shall also install wheelchair ramps consistent with the Department of Transportation=s design specifications.

(Prior Code, ' 11.0412) Penalty, see ' 93.999

GENERAL PROVISIONS

' 93.075 STAIR RAILINGS AND GRATES.

The owner of any building in said city having a stairway leading from an adjacent sidewalk to the cellar or basement of such building shall guard such stairway with a substantial railing not less than three feet high, and the entrance to such stairway shall be at right angles to the street from which such entry is made, and any person who shall have any permanent opening in any sidewalk for the purpose of letting light into any basement or cellar or for any other purposes, shall guard the same with a substantial cover.

(Prior Code, ' 11.0508) Penalty, see ' 93.999

' 93.076 PERMIT TO MOVE BUILDINGS.

(A) Any person desiring to move any building or structure along, upon or across any street, alley, sidewalk or public ground shall apply to and obtain from the City Finance Officer a permit to move such building or structure along, upon or across any street, alley, sidewalk or public grounds.

(B) No building or structure being so moved along, upon or across any street, alley, sidewalk or public grounds shall be moved or be upon any street, alley, sidewalk or public ground other than during the period from daylight to 4:00 p.m.

(C) If a building or structure is to be moved on to any lot within this city, the City Maintenance Superintendent or Street Commissioner shall have the power not to allow the Finance Officer to issue the moving permit on the grounds that the intended use of the structure or locations thereof is contrary to the provisions of this subchapter.

(Prior Code, ' 11.0509) Penalty, see ' 93.999

' 93.077 FENCES.

No person shall hereafter construct, erect or maintain, or cause to be constructed, erected or maintained, in the city limits of this city any fences of any character or material closer to the inside sidewalk line than one foot, and no barbed wire shall be constructed in any fence within the city limits.

(Prior Code, ' 11.0510) Penalty, see ' 93.999

' 93.078 REMOVAL OF DECAIVING OR BURNED BUILDINGS.

Whenever in the opinion of the City Maintenance Superintendent or Street Commissioner any building within the limits of the city shall have been damaged by fire, building collapse, decay or otherwise, to the extent of 50% of the value thereof, it shall be the duty of the City Maintenance Superintendent or Street Commissioner to report the same in writing to the Common Council at some regular meeting describing the said building, its location and the name of the owner if known. The City Finance Officer shall issue a notice to be served upon the owner, if within the state, or in case of his or her absence from the state, upon his or her agent if there be one, requiring said owner to appear before the Common Council at a time and place specified in said notice, not less than ten days after the service of such notice, and show cause why said building should not be torn down or removed. In case the owner cannot be found within the state and there is no agent present, then said notice shall be published in the official city newspaper and upon completion of such publication and due proof thereof, placed on file with the City Finance Officer, service of said notice shall be deemed valid and complete.

(Prior Code, ' 11.0511)

' 93.079 HEARING.

At the hearing the Common Council shall hear evidence as to the condition of such building, the extent to which the same has been damaged and the present value thereof, and if in the judgment of the Common Council such building has been damaged by fire, decay or otherwise to the extent of 50% of its value, then an order shall be made and entered of record, condemning such building to be torn down or removed and such order shall require the removal within such time as shall therein be specified under the direction of the City Maintenance Superintendent or Street Commissioner and the Chief of Police. Any disobedience of said order shall be deemed to be a violation of this order, and the city may prosecute the offender for violation of said ordinance and may remove the building and hold a lien against the property for all necessary expenses.

(Prior Code, ' 11.0512) Penalty, see ' 93.999

' 93.080 SIGNS AND OUTDOOR ADVERTISING.

Other than utility fixtures and holiday decorations no sign, awning or display shall be suspended, hanged or placed so that the same shall hang over any part of a street or sidewalk used for vehicular or pedestrian travel unless written application for a permit is made to the City Maintenance Superintendent or Street Commissioner and said City Maintenance Superintendent or Street Commissioner grants a permit therefor. The City Maintenance Superintendent or Street Commissioner shall take into consideration that no such sign, awning or display shall be suspended, hanged or placed in any manner that may endanger the life, health, property and public safety, and there shall be compliance with all provisions of the National Building Code relating to sign and outdoor advertising.
(Prior Code, ' 11.0513) Penalty, see ' 93.999

GRADING AND EXCAVATION REGULATIONS

' 93.095 GENERALLY.

This subchapter is intended to provide the community with fair and equitable grading practices and shall not supersede the requirements of any other ordinance or code.
(Prior Code, ' 11.0601)

' 93.096 GRADING RESPONSIBILITIES.

Grading operations shall be in accordance with ' ' 93.095 through 93.110.
(Prior Code, ' 11.0602)

' 93.097 EXCAVATION IN PUBLIC RIGHT-OF-WAY OR PRIVATE LAND.

It shall be unlawful for any person to make or cause to be made any excavation in, across, on or under any street, sidewalk, alley or public ground or remove any earth, soil, paving, gravel, concrete or other material there from, without first having obtained a permit therefore from the City Finance Officer.
(Prior Code, ' 11.0603) Penalty, see ' 93.999

' 93.098 APPLICATION AND BOND.

Before any such permit is issued, the person requiring the same shall make written application to the City Finance Officer, which shall state where such excavation is to be made, the extent thereof, in front of which lot or lots, and for what purpose the excavation is to be made. Before any permit is issued to any such person, a good and sufficient bond for \$5,000 could be required to cover such excavation. The bond shall be conditioned that such applicant shall fulfill all obligations provided in ' ' 93.101, 93.102, 93.104, 93.106 and 93.109. Only one bond is necessary for any number of authorized excavations as long as the bond is in full force and in effect. In addition, there shall be required a certificate of insurance showing that the applicant has a liability policy covering business operations including coverage for explosion, collapse and underground utilities, commonly referred to as NCU coverage. If the City Finance Officer and/or Public Works Director, after careful examination, find that application is in proper order and in conformance with the provisions herein, and if said bond has been properly posted and a certificate of liability has been filed, he or she may issue said permit to the applicant.
(Prior Code, ' 11.0604)

' 93.099 DEPOSIT FORFEITED.

If at any time within one year of the issuance of a permit in making excavation, the Public Works Director or Building Inspector shall find that the work for which the deposit on bond was made does not stand a satisfactory test or has not been properly refilled, then the Public Works Director or Building Inspector shall have the authority to cause such work to be put in proper and satisfactory condition and charge the cost thereof to the sum deposited or the surety bond furnished. This deposit shall be returned upon certification by the Public Works Director or Building Inspector that all work required has been performed satisfactorily.
(Prior Code, ' 11.0605)

' 93.100 NON-APPLICABLE TO UTILITY COMPANIES.

No utility company which has been heretofore granted by franchise or contract, the right to use the streets, alleys or other public places shall be required to furnish a bond for making any excavations to any public rights-of-way; provided that all of the sections of this chapter relating to excavations in public rights-of-way shall be binding upon such companies.
(Prior Code, ' 11.0606) Penalty, see ' 93.999

' 93.101 PROTECTION OF UTILITIES.

Public utilities or services shall be protected from damage caused by grading or excavation operations. Any damage this committed shall be fully compensated for by the person of whom the permit was granted to make said excavation.
(Prior Code, ' 11.0607)

' 93.102 PROTECTION OF ADJACENT PROPERTY.

Adjacent properties shall be protected from damage caused by grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public streets, sidewalk, alley or other public or private property, without supporting and protecting such property from any damage that might result.

(Prior Code, ' 11.0608) Penalty, see ' 93.999

' 93.103 INSPECTION NOTICE.

The Public Works Director and/or the Building Inspector shall be notified at least 24 hours prior to the start of work.

(Prior Code, ' 11.0609)

' 93.104 TEMPORARY EROSION CONTROL.

Precautionary measures necessary to protect adjacent watercourse and public or private property from damage by water erosion, flooding or deposition of mud or debris origination from the site shall be put in effect. Precautionary measures shall include provisions of property designed sediment control facilities so that downstream properties are not affected by upstream erosion.

(Prior Code, ' 11.0610)

' 93.105 TRAFFIC CONTROL AND PROTECTION OF STREETS.

Any person receiving a permit to make excavation shall during the progress and continuance of the work on such excavation erect and maintain around the same both by day and night suitable flaggers, barricades, fences, signs and other safety devices so as to prevent injury to persons, animals or vehicles on account of such excavation.

(Prior Code, ' 11.0611)

' 93.106 HAZARD FROM EXISTING GRADING.

Whenever any existing excavation, embankment or fill has become a hazard to life or limb, endangers structures, or adversely affects the safety, use or stability of a public way or drainage channel, such excavation, embankment or fill shall be eliminated.

(Prior Code, ' 11.0612)

' 93.107 TRACKING OF DIRT ONTO PUBLIC STREETS DURING EXCAVATIONS.

Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided during excavating.

(Prior Code, ' 11.0613)

' 93.108 MAINTENANCE OF WATERWAY AND IRRIGATION CANALS.

Precautionary measures to protect and maintain the flow of waterways and irrigation canals shall be taken.

(Prior Code, ' 11.0614)

' 93.109 RE-VEGETATION.

The loss of trees, ground cover and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover, plants and/or trees. Such planting shall provide for rapid, short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided where required by the Building Inspector or Public Works Director.

(Prior Code, ' 11.0615)

' 93.110 DESIGN STANDARDS.

The grading design standards required here in shall be those found in nationally recognized standards.

(Prior Code, ' 11.0616)

' 93.999 PENALTY.

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

(B) (1) Any person who is violation of ' 93.038(A) shall be fined in addition to and not in substitution for any and all penalties now provided by law for such offense the following amounts:

(a) In an amount equal to \$0.05 per pound for each pound of such excess or combined excess weight over 1,000 pounds when such excess is 2,000 pounds or less;

(b) In an amount equal to \$0.10 per pound for each pound of such excess or combined excess weight when such excess exceeds 2,000 pounds and is 3,000 pounds or less; and

(c) In an amount equal to \$0.15 per pound for each pound of such excess or combined excess weight when such excess exceeds 3,000 pounds and is 4,000 pounds or more.

(2) A violation of ' 93.038 shall be a separate offense punishable by a fine not exceeding \$200. (Prior Code, ' 11.0304)

(C) Any person convicted of violating any provisions of ' ' 93.075 through 93.081 may be punished by the following penalties: a fine not exceeding \$100. This section is not intended to limit in any manner any other remedies available to the city under the laws of the state. (Prior Code, ' 11.0514)

