

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: FIRE PREVENTION AND PROTECTION

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GENERAL PROVISIONS

§ 90.01 STATE LAW.

No person shall violate any law of the State of Michigan, nor any rule or regulation adopted by any duly authorized agency of the State of Michigan, pertaining to fire, fire hazards, fire prevention, or fire waste. (1997 Code, § 3201) Penalty, see § 10.99

§ 90.02 FALSE FIRE ALARMS.

No person shall willfully turn in, sound, or cause to be communicated to the Fire Department, a false alarm of fire (Public Act 328 of 1931 being MCL 750.240). (1997 Code, § 3202) Penalty, see § 10.99

§ 90.03 INJURY TO FIREFIGHTING EQUIPMENT.

No person shall willfully molest, take for his or her own private use, or damage in any manner any firefighting equipment or apparatus or anything pertaining to the firefighting system, or drive any vehicle upon or against any hose or equipment of the Fire Department (Public Act 328 of 1931 being MCL 750.241). (1997 Code, § 3203) Penalty, see § 10.99

§ 90.04 OBSTRUCTION OF FIRE HYDRANTS.

No person shall place any obstruction whatever, nor shall any person responsible for the obstruction permit it to remain, within 15 feet of any fire hydrant. (1997 Code, § 3204) Penalty, see § 10.99

§ 90.05 AUTHORITY OF FIRE DEPARTMENT.

Brown City - General Regulations

(A) At any fire, the Fire Chief or other person in command of the Fire Department shall have full power, control, and command of all persons present, and shall have full power

(B) The Fire Chief or other person in command of the Fire Department, or any member of the Police Department, may require the aid of any person in extinguishing the fire, or in preventing any property from being stolen or injured, or in protecting, removing, or securing the same.

(C) Any person refusing or failing to comply with the requisition for assistance, or who shall disobey any lawful order or who shall interfere with or impede any member of the Fire or Police Department in the performance of his or her duties, shall be punishable as provided in this code.

(1997 Code, § 3205) Penalty, see § 10.99

§ 90.06 DESTRUCTION OF BUILDINGS.

The Fire Chief alone, or any other person in command of the Fire Department with the concurrence of the Mayor or any Councilmember, shall have the authority to direct any buildings to be removed or destroyed for the purpose of checking the progress of any fire.

(1997 Code, § 3206)

§ 90.07 FIRE INSPECTION.

(A) The Fire Chief, or his or her authorized representative, is hereby empowered to enter at any and all reasonable times upon and into any premises, buildings, or structure for the purpose of examining and inspecting the same, to ascertain the condition thereof with regard to fire hazards, and the condition, sizes, arrangement, and efficiency of any and all appliances for fire

to enter upon any premises adjoining or adjacent to utilize any facilities available for the extinguishment of the fire.

fighting.

(B) If the inspection shall disclose any fire hazard or any deficiency in firefighting appliances, the Fire Chief shall order the condition remedied. If the resident or owner of the premises is in disagreement with the Fire Chief, he or she shall appear at the next Council meeting and place his or her reasons for disagreement with the Fire Chief before the Council. The Council shall either make an independent investigation, through a committee or by itself, or may decide the matter on its merits at the meeting. Any person who fails to comply with the order of the Fire Chief or with the Council after such a procedure shall be in violation of this subchapter.

(1997 Code, § 3207) Penalty, see § 10.99

§ 90.08 COMBUSTIBLE MATERIALS.

No person owning or being responsible for any premises shall permit any waste paper, ashes, oil, rags, excelsior, or any material of a similar nature to accumulate thereon, unless contained in fireproof receptacles.

(1997 Code, § 3208) Penalty, see § 10.99

§ 90.09 BONFIRES.

(A) No person shall kindle any fire within 25 feet of any building, unless the fire be confined in a safe container, and in no case shall any such fire be permitted within 15 feet of any building.

(B) No person having kindled a bonfire

shall fail to be in constant attendance upon the same until it is completely extinguished.

(C) No person shall kindle a fire in or upon any street or alley.

(D) (1) When in the judgment of the Fire Chief the kindling of a fire will constitute a fire hazard, he or she shall direct any person kindling a fire to extinguish the same.

(2) No person shall fail to obey the

(B) No inflammable material shall be permitted under or at the bottom of any stairway, elevator, or other part of any building; nor shall any such material be placed in such a position as to obstruct or render hazardous egress from a building.

(C) No obstruction shall be permitted in hallways of apartment houses, hotels, lodging houses, or tourist homes.

(D) No person shall obstruct any door, aisle, or passageway of any theater, church, or other place of public assemblage with any furniture or article.

(E) No person shall sit or stand, or be permitted to sit or stand, in any aisle in any such place of assemblage, or in any exit or passage required for the safe exit of the assemblage.

(F) Clear passage from all exits and on sidewalks must be maintained outside of all the places of public assemblage.

(G) No aisle, passageway, or stairway in any store shall be obstructed with tables, show cases, or other obstructions during the hours in which the store is open to the public. (1997 Code, § 3210) Penalty, see § 10.99

direction.

(1997 Code, § 3209) Penalty, see § 10.99

§ 90.10 FIRE EXITS.

(A) No obstruction shall be permitted in the way of, or upon, any fire escape, balcony, or ladder intended as a means of escape from fire.

§ 90.11 STARTING FIRES BY SMOKING UNLAWFUL.

(A) It shall be unlawful for any person in smoking, or in attempting to light or to smoke a cigarette, cigar, pipe, or tobacco in any form for which a lighter or matches are used, to set fire to any bed, bedding, furniture, curtains, drapery, or household furniture in any hotel, rooming house, or public lodging house.

(B) The owner or operator of any hotel, rooming house, or public lodging house shall post a plainly printed copy of this section of the code in a conspicuous place in each room and in the lobby.

(1997 Code, § 3211) Penalty, see § 10.99

FIRE DEPARTMENT

§ 90.25 GENERALLY.

The City shall be a voting member of the Brown City Area Fire Authority and adopt their regulations, as amended, by reference.

(1997 Code, § 6501)

CHAPTER 91: NUISANCES

Section

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GENERALLY

§ 91.01 PUBLIC NUISANCE DEFINED.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a

different meaning.

PUBLIC NUISANCE. Whatever annoys, injures, or endangers the safety, health, comfort, or convenience of the public; offends public decency, interferes with, obstructs, or renders dangerous any public place, street, highway, navigable lake, or stream; or in any way renders the public insecure in life or property. **PUBLIC NUISANCE** shall include, but not be limited to, whatever is forbidden by any provision of this chapter. (1997 Code, § 4101)

§ 91.02 PROHIBITION.

No person shall commit, create, or maintain any nuisance. Each day a nuisance shall remain unabated shall be construed as a separate violation. (1997 Code, § 4102) Penalty, see § 91.99

§ 91.03 ABATEMENT.

The City Manager may, at his or her option, elect to enforce the provisions of this chapter by one of the following methods, or by any combination thereof:

(A) The City Manager may prosecute the person committing, creating, or maintaining the nuisance for a violation of the provisions of this code;

(B) The City Manager may cause the nuisance to be immediately abated provided the nuisance involves the public health or safety or injury to property; or

§ 91.04 ABATEMENT BY CITY.

In the event that the owner, possessor, or occupier, or any person, firm, or corporation having charge, of any property subject to an order of abatement of a nuisance by the Council fails or refuses to comply with the abatement notice, it shall be the duty of the City Manager to take the necessary steps to abate and remove the nuisance after the date prescribed in the notice of abatement. (1997 Code, § 4104)

§ 91.05 RECOVERY OF EXPENSE.

(A) The City's cost of abatement of any nuisance may be collected in an action at law from the owner, occupier, or possessor of the property upon which the nuisance was committed, created, or maintained.

(B) In all cases where the City shall incur any expenses for draining, filling, cleansing, or purifying any lot, place, or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such lot or premises, the Council may, in addition to all other remedies provided for the recovery of the expense, charge the same or the part thereof as it shall deem proper, upon the lot or premises upon or on account of which the expense was incurred, or from which the nuisance was removed or abated, and cause the same to be assessed upon the lot or premises and collected as a special assessment. (1997 Code, § 4105)

(C) The City Manager may give notice in the manner provided in § 10.12, ordering the nuisance to be abated. (1997 Code, § 4103)

§ 91.06 DANGEROUS BUILDINGS.

(A) *Dangerous building defined.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS BUILDING. Any building or structure that has any of the following defects:

(a) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before the catastrophe, and is less than the then present minimum requirements of the state building codes in effect in the City for a similar new building or structure;

(b) Whenever any portion of the building or structure is likely to fall or to become dislodged, or to collapse and thereby injure persons or damage property;

(c) Whenever, for any reason whatsoever, the building or structure or any portion is manifestly unsafe for the purpose for which it is used;

(d) Whenever the building or structure has been so damaged or deteriorated that the interior of the building is exposed to elements and is accessible to entrance by trespassers, and may become an attractive

nuisance to children who might play therein to their danger; and/or

Building Inspector believes to be dangerous, as defined in this section.

(e) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease, or is likely to work injury to the health, safety or general welfare of those living in or near it.

(C) *Notice.*

(1) Upon receipt of a report, as set forth in division (B) above, the City Manager shall cause to be issued a notice, which shall specify the nature of the dangerous condition, and shall require the person to whom the notice is directed to contact the City Manager within 14 days of the date of the notice, to review the condition of the building or structure, and to reach an agreement with the City Manager setting forth the time and manner in which the condition(s) which led to issuance of the report shall be corrected.

(B) *Inspection.* The Sanilac County Building Inspector shall inspect, and file with the City Manager a report on all buildings and structures that the Sanilac County

be repaired, demolished, or otherwise made safe, it shall so order, fixing a time not less than 60 days within which compliance must be completed.

(2) The notice shall be directed to the person or persons in whose name the property appears on the most recent City tax assessment records.

(3) The notice shall be sent by first-class mail.

(3) A copy of the decision of the City Council shall be sent by regular mail or otherwise delivered to the **RESPONSIBLE PERSONS**, herein defined as the person or persons holding title of record and any lien holders thereon.

(D) *Failure to reach agreement or to comply with agreement.* If the person to whom the notice is directed, or his or her duly authorized representative, fails to contact the City Manager, if an agreement is not reached, or if an agreement is reached but not complied with, the City Manager shall request that the City Council conduct a hearing relevant to the status of the building.

(E) *Compliance.* Complying with a City Council decision to require the repair, demolition, or making safe of a building or structure shall be the responsibility of the responsible persons, as defined in division (D) above.

(1) If it is determined by the City Council that the building or structure is not dangerous or unsafe, no further action shall be taken.

(2) If it is determined by the City Council that the building or structure should

(F) *Failure to comply; lien.* Any responsible person or persons who fail to comply with the City Council's decision within the time specified shall be responsible for having committed a municipal civil infraction. In addition to other remedies for a civil infraction under this code, the court may order that the City have the required repair, demolition, or other work completed.

The cost of the required repair, demolition, or other work shall be a lien against the real property on which the building or structure is located, and shall be assessed against the real property on the next tax roll.

(Public Act 167 of 1917 being MCL 125.538 - 125.540) (1997 Code, § 4106A) Penalty, see § 91.99

Cross-reference:

Abatement of swimming pools in accordance with dangerous buildings, see § 150.05

§ 91.07 REFUSE.

(A) No person shall dispose of any refuse, waste, or other such material, except at dumps which have been approved and are supervised by the State of Michigan Department of Environmental Quality, and which are clearly marked for the purpose; provided that garbage shall not be permitted on any dump within the City.

(F) No person shall allow any refuse or waste to collect or lie on property he or she owns, occupies, or controls in such a manner that it attracts flies, and annoys or interferes with the safety, health, comfort or repose of the public, and emits odors, is unsightly, or is offensive.

(1997 Code, § 4107) Penalty, see § 91.99

§ 91.08 SMOKE.

(B) The foregoing shall not prevent the burning or other disposal of garbage, refuse, waste, foods, or other such material in receptacles approved by the State of Michigan Department of Environmental Quality, or prohibit the commercial collection of rubbish and garbage by licensed collectors for disposal beyond the City limits.

(C) Every person shall keep within the lot line of his or her premises a suitable receptacle for depositing any ashes, glass, metal, stone, cans, or other refuse and waste of a like nature.

(D) Each person, who is responsible for any lot or premises within the City which is occupied for residential or commercial purposes, shall keep, within the lot line, a receptacle for garbage, animal, or vegetable matter, which receptacle shall have a cover, and which shall be at all times left in a convenient place so that proper collection of the garbage may be made at any time.

(E) Except as heretofore provided in this section, no person shall dump, abandon, throw, or scatter any refuse or waste in, or transport the same in such a manner as to cause the littering of any street, alley, or public place, or of any private property not his or her own, or to cause the obstruction of any ditch, drain, or gutter.

No person who is responsible therefor shall permit the emission from any chimney or smokestack of dense smoke or smoke containing soot or other substance in sufficient quantity to noticeably permit the deposit of soot or other substance within the City. The emission of smoke or other substance is herein described to constitute a public nuisance.

(1997 Code, § 4108) Penalty, see § 91.99

(3) Affects property values and appearances in non-agricultural areas;

§ 91.09 BARBED WIRE.

No person shall place or maintain any barbed wire fencing or any strands of barbed wire along the line of, or in any public street, alley, or public place within the corporate limits; nor shall any person place or allow the same to remain between any premises owned or occupied by him or her and the adjoining premises; or place or allow to remain any barbed wire fencing or barbed wire within the corporate limits in any place where it will expose any person to injury on account thereof; provided that it shall not be unlawful to place the barbed wire at the top of a legal fence when placed not less than 6 feet from the ground.

(1997 Code, § 4109) Penalty, see § 91.99

(4) Creates danger of crime where unkempt lawns may give rise to an assumption that the premises are unoccupied;

(5) Creates danger where tall grass and weeds near residences may hide garbage and debris which attracts rodents; and

(6) Affects the public welfare by reflecting negatively on our citizens and City.

(B) *Purpose.* In order to preserve property values to protect the public health and safety, all owners of property within the City shall keep such property free from noxious weeds and tall grass. The property shall be mowed whenever such grass exceeds 8 inches in height; provided, such mowing shall occur not less than once each calendar month from May through September.

§ 91.10 NOXIOUS WEEDS AND GRASSES.

(A) *Intent.* The City Council finds that the failure to cut and mow grass and weeds in residential, commercial, and industrial areas of the City creates a nuisance and is harmful to the health and well-being of the residents, and is contrary to the general welfare of the residents. Specifically, the failure to mow the grass and cut weeds in said areas:

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) Creates a nuisance in that weeds are permitted to go to seed and spread onto the lawns of neighbors;

CITY MANAGER. The duly appointed and acting City Manager who shall also serve as the Code Enforcement Officer of the City.

(2) Creates a health hazard in that overgrown lawns and weeds contribute to the amount and spread of pollen, affecting those who suffer from allergies;

CODE ENFORCEMENT OFFICER. The duly appointed and acting Code Enforcement Officer of the City.

COST. The expense of surveying the lots upon which weeds are growing, the expense of notices, printing, mailing and actual expense incidental to the cutting of weeds.

COUNCIL. The duly elected legislative

body of the City.

LOT OR PARCEL OF LAND. Any subdivision, lot or portion thereof as officially platted or any unplatted parcel of land as may be described upon official records.

NOXIOUS WEEDS. Includes, but not limited to Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior*) and poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron Vernix*), rank vegetable growth which emits unpleasant, unhealthy or noxious odor or pollen, and any high weeds or vegetative growth which might conceal rubbish, waste materials or filthy deposits. It shall also include normal grass in excess of 8 inches in length.

OWNER. The last recorded title holder of any lot or parcel of land or the person whose name is listed last upon the City tax roll as owner of a certain lot or parcel of land.

RULES OF CONSTRUCTION. Singular words shall include the plural, and masculine words shall include the feminine and the neuter.

(D) *Permitting noxious weeds.* No owner, occupant or person having charge of any lot or parcel of land within the City shall permit or allow noxious weeds to grow thereon or permit any noxious weeds to ripen or reach seed bearing stage.

(E) *Cutting and destroying noxious weeds.* No owner, occupant or person having charge of any lands within the limits of the City

upon which noxious weeds (or tall grass) are growing or standing shall fail, neglect or refuse to cut and destroy or cause to be cut and destroyed all noxious weeds growing or standing on the premises.

(F) *Declaration of public nuisance.* The presence of noxious weeds upon any lot or parcel of land within the limits of the City is hereby declared to be a public nuisance, and shall be a violation of this section by the owner, occupant or person having charge of the lot or parcel of land.

(G) *Notice required.* It is hereby made the duty of the Code Enforcement Officer to give general notice to every owner, occupant or person having charge of any lands in the City wherein noxious weeds are growing, to cut and destroy the same, in the following manner: Notice that all noxious weeds must be cut on or before the date set by the Code Enforcement Officer shall be given to each owner of or party in interest in property whose name appears on the last local assessment records of the City, by mailing such notice by first class mail addressed to such owner or party in interest at the address shown on the tax record at least 5 days prior to the date upon which the weeds must be cut, or by publication at least once in a newspaper of general circulation in the City to be designated by the Council, the publication to be not less than 5 days prior to the date upon which the weeds must be cut. For the second and each subsequent notice required to be sent in any calendar year by the Code Enforcement Officer to the owner or party in interest, there shall be an additional charge to be determined from time to time by Council, which shall be collected in the same manner as set forth in division (J) below.

(H) *Form of notice.* The notice may read

as follows:

NOTICE TO CUT WEEDS

Notice is hereby given to the owner, occupant or person having charge of any lot or parcel of land in the City of Brown City that all noxious weeds growing on any lot or parcel of land in said City of Brown City, Brown City County, Michigan, must be cut down and destroyed on or before the day of _____, 20XX. Failure to comply with this notice on or before the date mentioned shall make the owner, occupant or person having charge of said lot or parcel of land, liable for the cost of cutting or destroying same and an additional levy of 25% of such cost to be levied and collected against the property in the manner provided by law, in addition to any other penalty provided by law. It is hereby determined that the 25% charge is reasonable given the city's administrative expenses.

(I) *Failure to comply with notice.* In case the owner, occupant or person having charge of any land in the City shall refuse or neglect to comply with such notice, or shall refuse or neglect to cut the weeds on or before the date stated in such notice, it shall be the duty of the Code Enforcement Officer or someone working under his or her direction and employment to enter upon the land and to cause all such noxious weeds to be cut down with as little damage to other vegetation as possible. Express power to enter upon such land and destroy noxious weeds is hereby conferred upon the Code Enforcement Officer.

(J) *Cost and charges.* The cost in connection with the cutting or destroying of noxious weeds, together with 25% of such cost to cover the contingent expenses, shall be

charged against the owner or occupant of said premises and against the property itself; provided, however, that the minimum charge for such work on any lot or parcel of land shall be \$50.

(K) *Collection of cost and charges.* The Deputy City Clerk shall keep a record of the cost of cutting the weeds upon each separate lot and parcel of land by the City and shall notify the owner or occupant of the said premises, by ordinary mail addressed to the person whose name appears on the last local assessment records of the City, that the City has cut or caused to be cut and destroyed the weeds upon said premises in accordance with this section, together with a statement of the amount due the City. If the cost and charges due the City for cutting and destroying weeds upon any lot or parcel of land in accordance with the provisions of this section shall not have been collected on or before August 31, the same shall be reported by the Treasurer to the City Council to be collected by a special assessment against the property owners in accordance with Chapter 32. The remedy provided for in this section shall be in addition to the penalty provided in § 91.99.

(1997 Code, § 4110) Penalty, see § 91.99

NOISE

§ 91.20 DEFINITIONS.

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

Brown City - General Regulations

CITY MANAGER. The City Manager of the City.

COMMERCIAL. A use of property for purposes other than residential.

CONSTRUCTION. Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private right-of-way, structures, utilities or similar property.

EMERGENCY VEHICLE, MACHINERY OR ALARM. Any machinery, vehicle or alarm used, employed, performed or operated in an effort to protect or restore safe conditions in the community or for the citizenry or work by private or public utilities when restoring utility service.

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened
§ 91.21 PROHIBITED NOISES.

(A) *Generally.* It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unreasonable, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any other person, resident or property owner within the City.

(B) *Specific prohibitions.* The following activities and noises are prohibited if they produce clearly audible sound beyond the property line of the property on which they are conducted. These regulations apply to commercial properties, activities or uses between the hours of 10:00 p.m. and 7:00 a.m. and residential properties between the hours of 11:00 p.m. and 7:00 a.m.

or caused by an emergency or work by private or public utilities when restoring utility services.

PROPERTY LINE. The imaginary line which represents the legal limits of property, including an apartment, condominium, room or other dwelling unit, owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the **PROPERTY LINE** shall be the nearest boundary of the public right-of-way.

RESIDENTIAL DISTRICTS. Consists of Neighborhood Residential (NR), Estate Residential (ER), Single Family Attached Residential (SFAR), Multiple Family Residential (MFR) and High Density Single Family Residential (HDSFR).

(1) The operation of power tools or equipment.

(2) The sounding of any bell, chime, siren, whistle or similar device, except:

(a) To alert persons to the existence of an emergency, danger or attempted crime; or

(b) As provided in § 91.22.

(3) The operation or playing of any radio, television, phonograph, audio equipment, drum or musical instrument. Also, the creation or activity of music.

(4) Construction, repair, remodeling, demolition, drilling or excavation work Monday through Sunday, except as permitted in § 91.22.

(5) The operation or use of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds indoors or outside the premises.

(6) The creation of any loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates or other containers.

(7) The use of any drums, loud-speakers, musical devices or other instruments or devices for the purposes of attracting attention by the creation of noise to any performance, show or sale or display of merchandise.

(C) *Special prohibitions.* It shall be unlawful for any person to own, harbor or keep any dog which shall cause annoyance or disturbance at any time (24 hours a day) to people in the neighborhood or people on the streets of the neighborhood by loud or frequent or habitual barking, howling or yelping.

Penalty, see § 91.99

§ 91.22 GENERAL EXEMPTIONS.

(A) An application for a license to engage in any activity, noise or use which would otherwise violate § 91.21 must be made in writing and submitted to the Deputy City Clerk. Application shall be made at least 30 days prior to the date of the proposed use or event. The applicant requesting the license must be the taxpayer of record for the property on which the use or event will take place. The application shall contain all of the following information:

- (1) Name and mailing address of the

The following activities and noises are exempted from the requirements of § 91.21:

(A) Otherwise lawful regular or permitted activities or operations of governmental units or agencies.

(B) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster or to restore public utilities, or to protect persons or property from an imminent danger.

(C) Devices or activity creating sound made to alert persons to the existence of an emergency, danger or attempted crime.

(D) Any vehicle or equipment designed and used for the purpose of snow and/or ice removal, or garbage/trash removal, when in use for such purposes.

(E) Other activities as approved by the City as specified in § 91.23.

§ 91.23 APPLICATION FOR A LICENSE TO EXCEED NOISE LIMITS.

person making the application.

(2) A statement of the type of event to take place which will require the license.

(3) The address and legal description of the property the event is to be held on.

(4) The date and hours during which the event will be conducted.

- (5) An estimate of the maximum number

of attendants expected at the event.

(B) Upon receipt of the application by the Deputy City Clerk, copies of the application shall be forwarded to the Police Department and the Fire Chief serving the subject area, and to such other appropriate agencies as the Deputy City Clerk shall deem necessary. The officers and officials shall review matters relevant to the application and within 10 days of receipt thereof, shall report their findings and recommendations to the City Manager.

(C) Within 20 days of the filing of the application, the City Manager shall issue or deny a license. The City Manager may attach reasonable conditions to the issuance of a license. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within 5 days of such action, notice thereof must be mailed to the applicant, and in the case of denial, the reasons therefore shall be stated in the notice. A denial (or condition attached to an approval) may be appealed to the City Council if the applicant files a written notice of appeal with the Deputy City Clerk within 10 days of the date of the City Manager's decision.

§ 91.24 ADMINISTRATION AND ENFORCEMENT.

(A) *Complaints.* Complaints by a resident or property owner in the City regarding any violations of this subchapter shall be filed with the City Manager or his or her designee. Complaints may be investigated after 2 complaints for the same violation on the same date are filed from residents who reside at different households.

(B) *Enforcement.* The City Manager is hereby authorized, empowered and directed to enforce all provisions of this subchapter and any subsequent amendments hereto (including issuing civil infraction tickets) and he or she is authorized to employ the necessary assistants to aid in the enforcement of this subchapter.

(C) *Persons chargeable with a violation.* Persons chargeable with a violation of this subchapter and subject to being responsible for a municipal civil infraction may include the following:

(1) The owner, agent, lessee, tenant, contractor or any other person using or having control or possession of the land, building or premises where such violation has been committed or shall exist;

(2) Any person who knowingly commits, aids and abets, takes part or assists in any such violation; or

(3) Any person who owns or maintains any land, building, or premise on which such violation shall exist.

§ 91.99 PENALTY.

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

(B) Any person, firm, or corporation who violates any provision of §§ 91.06, 91.07, or 91.10, or any amendment thereof, including the owner, possessor, or occupier of any premises within the City who allows or suffers the violation upon the premises, is “responsible” for having committed a municipal civil infraction, as provided for in Public Acts 12, 17 and 19 of 1994 being MCL 600.8701 et seq., 117.41, 117.29 and 89.2; the violation is punishable by a civil fine of \$50 for a first violation, \$100 for a second violation, and \$150 for a third violation. The City Council may hereafter modify, change, increase, or decrease the civil fines set forth above, by the adoption of a resolution to that effect as provided by law and this division (B). In addition, costs of the action may be taxed and imposed against the defendant. Costs are not limited to costs taxable in ordinary civil actions and may include all expenses, direct or indirect, to which the plaintiff (the City or other enforcing municipality, agency, or other entity) has been put in connection with the municipal civil infraction, up to entry of judgment. In addition, any sanctions, writ, other court order, or other post judgment remedy, as provided by law, necessary to enforce this division (B) and correct or abate a violation, or necessary to enforce any orders and determinations of the court, judge, or district court magistrate, including civil contempt proceedings, may be issued as appropriate and as provided for by law, including but not limited to the imposition of liens against real estate interests, seizure of property, attachment and garnishment and including post judgment enforcement costs and expenses as provided for by law, including any other enforcement authority set forth in any ordinance. This division (B) is enforceable by the judge or magistrate, and by the City or other enforcing

agency or entity to the fullest extent as provided by law relative to violations of municipal civil infractions. The enumeration of certain powers and remedies within this division (B) is not intended to restrict any enforcement authority or remedy or sanction provided for by law, specifically including Public Acts 12, 17, and 19 of 1994 being MCL 600.8701 et seq., 117.41, 117.29 and 89.2. Provided further, however, a violation of §§ 91.06, 91.07, or 91.10 is not a misdemeanor and shall not be considered a lesser included offense of any criminal offense. Each day that a violation continues constitutes a separate and independent violation and is subject to the penalties provided for herein for each such violation.

A violation of §§ 91.06, 91.07, or 91.10 is hereby declared to be a public nuisance per se. The municipal civil infraction notice or citation may be served personally or as otherwise provided by law and if the violation involves the use, condition, or occupancy of land or of a structure, the notice or citation may be posted upon the premises or attached to the structure at issue, with a copy sent by first-class mail to the owner at his or her last known address, and/or the owner and address as disclosed by the City tax rolls.

Failure to appear or respond to any notice and/or citations relative to a municipal civil infraction shall be subject to the penalty as is otherwise provided by law.

(1997 Code, § 1105A)

(C) Any person who violates any provision of §§ 92.20 through 92.24 shall be deemed responsible for a municipal civil infraction, subject to payment of a civil fine in accordance with § 91.99. Repeat offenses shall be subject to increased fines as provided accordance with § 91.99. As used herein, “repeat offense” means a second (or any subsequent) violation of §§ 92.20 through

92.24 committed on a specific parcel or property within any 1 year period and for which the person admits responsibility or is determined to be responsible.

CHAPTER 92: ANIMALS

Section

| | | |
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| 92.01 | Purpose | of animals within the City. |
| 92.02 | Definitions | (1997 Code, § 4301A) |
| 92.03 | Cruelty to animals | |
| 92.04 | Animal nuisance prohibited | |
| 92.05 | Number of animals | |
| 92.06 | Prohibited animals; general regulations | |
| 92.07 | Keeping of vicious dogs regulated | |
| 92.08 | Rabies prevention | |
| 92.09 | Enforcement | |
| 92.10 | Pet sanitation | |
| 92.11 | Duty to control dogs | |
| 92.99 | Penalty | |

§ 92.02 DEFINITIONS.

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

ADULT ANIMAL. Any animal more than 4 months of age.

ANIMAL. Any live creature, domestic or wild, excepting human beings, fish, turtles, and birds that are household pets, such as canaries and parakeets.

§ 92.01 PURPOSE.

The purpose of this chapter is to promote harmonious relationships in the interactions between man and animals by:

(A) Delineating the animal owner's or harborer's responsibility for the acts and behavior of his or her animals at all times;

(B) Providing security to residents from annoyance, intimidation, injury, and health hazards by animals;

(C) Encouraging responsible pet ownership; and

(D) Limiting the type, amount, and control

ANIMAL NUISANCE is created when an animal:

(1) Runs uncontrolled;

(2) Molests or disturbs persons or vehicles by chasing, barking or biting;

(3) Attacks other animals;

(4) Damages property other than that of the owner or harborer;

(5) Barks, whines, howls, honks, brays, cries, meows, or makes other noises excessively; and/or

(6) Creates noxious or offensive odors.

KENNEL. An establishment wherein or whereon 3 or more dogs are confined and kept for sale, boarding, breeding or training purposes, for remuneration, and a kennel facility shall be so constructed as to prevent the public or stray dogs from obtaining entrance thereto and gaining contract with dogs lodged in the kennel (Public Act 339 of 1919 being MCL 287.270). (1997 Code, § 4302A)

§ 92.03 CRUELTY TO ANIMALS.

It shall be unlawful for any person to:

(A) Beat, underfeed, overload, overwork, torment, abandon, or otherwise inhumanely treat any domestic animal anywhere in the City;

(B) Kill or wound, or attempt to kill or wound, or take the eggs or young of any game or song bird;

(C) Knowingly poison, or cause to be poisoned, any domestic animal, except that common rat poison mixed only with vegetable or grain substances may be exposed for the protection of property;

(D) Give away any domestic animal as a prize for, or as an inducement to enter, any contest, game or other competition; or as an inducement to enter a place of amusement; or to offer the animal as an incentive to enter into any business agreement, when the offer was for the purpose of attracting trade; or

(E) Fail to provide the same with the necessary food, bedding, shelter, or protection from the weather.

(1997 Code, § 4303A) Penalty, see § 92.99

§ 92.04 ANIMAL NUISANCE PROHIBITED.

(A) It shall be unlawful for the owner or harbinger of any dog, cat, or other domestic animal to cause or permit the animal to perform, create or engage in any nuisance as defined by § 92.02. Any animal found acting in any way forbidden by this chapter, in the determination of the City, shall hereby be declared a nuisance, and its owner or harbinger shall be subject to enforcement action.

(B) Following reasonable notification that an animal has been deemed a nuisance by the City, the owner shall abate the nuisance within 24 hours or exercise the right of appeal to the City Council at the first available opportunity.

(1997 Code, § 4304A) Penalty, see § 92.99

§ 92.05 NUMBER OF ANIMALS.

It shall be unlawful for any person, partnership, corporation, or association to harbor or own more than 5 adult animals, or any combination thereof, except boarding kennels, veterinary hospitals, clinics, or pet shops in properly zoned districts.

(1997 Code, § 4305A) Penalty, see § 92.99

§ 92.06 PROHIBITED ANIMALS; GENERAL REGULATIONS.

No person shall bring into, keep, maintain, offer for sale, or barter in the City, except if available for purchase in any licensed pet store:

(A) Any poisonous or venomous biting or injecting species of amphibian, arachnid, or reptile, including snakes;

(B) Any snake not indigenous to this state;

(C) Any bees or beehive; any beehive used or occupied by bees is hereby declared to be a nuisance; and it shall be unlawful to keep or maintain any such hive in the City;

(G) Exceptions; this chapter shall not prohibit a circus or other entertainment organization, an educational, scientific or medical institution, which have obtained any required permits, from keeping the animals where the same are securely and humanely confined.

(1997 Code, § 4306) Penalty, see § 92.99

§ 92.07 KEEPING OF VICIOUS DOGS REGULATED.

The keeping of vicious dogs will be subject to the following standards.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

VICIOUS DOG.

(a) Any dog with a propensity, tendency, or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or other domestic animals;

(b) Any dog that has previously attacked or bitten a human being or other domestic animal, other than under the type of circumstances that would be justifiable;

(D) Any domestic animal, as defined in § 92.02, other than dogs, cats, rabbits, hares, and birds that are household pets, such as canaries and parakeets;

(E) Any vicious (dangerous) animal;

(F) Nonhuman primates, which include but are not limited to, animals commonly known as monkeys, chimpanzees, orangutans, gorillas, gibbons, apes, baboons, marmosets, tamarins, lemurs, lorises, and galagos; and

and/or

(c) Any dog that has behaved in such a manner that the owner thereof knows, or should reasonably know, that the dog is possessed of tendencies to attack or bite human beings or other domestic animals, other than under the type of circumstances that would be justifiable.

(B) *Leash and muzzle.* No person shall permit such a dog to be kept on a chain, rope, or other type of leash outside its kennel or pen, unless a person is in physical control of the leash. The dogs may not be leashed to inanimate objects, such as trees, posts, buildings, and the like. In addition, all the dogs on a leash outside their kennel must be muzzled by a muzzling device sufficient to prevent the dogs from biting persons or other animals.

(C) *Confinement.* All vicious dogs shall be securely confined indoors, or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided above. The pen, kennel, or structure must have secure sides, and a secure top attached to the sides.

All structures used to confine the dogs must be locked with a key or combination lock when the animal(s) are within the structure. The

structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in ground to a depth of not less than 2 feet. All structures erected to house the dogs must comply with all City zoning and building regulations. All the structures must be adequately lighted and ventilated, and kept in a clean and sanitary condition.

(D) *Confinement indoors.* No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit the building on its own volition.

In addition, no animal may be kept in a house or structure where window screens or screen doors are the only obstacle preventing the dog from exiting the structure.

(E) *Compliance.* It shall be unlawful for the owner, keeper, or harbinger of a vicious dog within the City to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject

(C) Any animal impounded for observation for rabies shall be held until released by the Chief of Police or otherwise disposed of.

Any animal impounded for having bitten any person shall be held for not less than 5 days.

If any complaint has been made and filed before any court having jurisdiction of the cases, whereby an order that the animal be killed or confined is sought, then the animal shall be held for such further time until the case is finally disposed of. All other impounded animals under this chapter shall be held for not less than 48 hours, and shall be released to their respective owners, upon payment of the reasonable fee as the City Manager may establish, with the approval of the City Council.

(D) The Police Department shall notify the owner of every animal that is impounded,

of a violation in this section shall be subject to immediate seizure and impoundment.

(1997 Code, § 4307) Penalty, see § 92.99

§ 92.08 RABIES PREVENTION.

(A) Any person who has in his or her possession any animal that has contracted rabies, has been subjected to the same, is suspected of having rabies, or has bitten any person, shall, upon demand of any police officer or health officer, produce and surrender up the animal to be held for observation as hereinafter provided.

(B) Any person owning or harboring any animal that has been attacked or bitten by any cat or other animal showing the symptoms of rabies shall immediately notify the Police Department of his or her possession of the animal.

if the owner of the animal can be ascertained, as soon as possible after the animal has been impounded.

(E) After the animal has been kept for 48 hours and has not been claimed by its owner, the animal may be destroyed in a humane manner if it is diseased, injured, or of little value, or the animal may, at the discretion of the Chief of Police, be sold or given away to any person whom the Chief of Police believes will keep and care for the animal in a proper and humane manner.

(1997 Code, § 4308)

§ 92.09 ENFORCEMENT.

(A) Any animal found in the City doing any forbidden acts or at large under

circumstances prohibited by this chapter, or which is suspected of having rabies or of having bitten any person or animal, may be seized and impounded by any City police officer. The person or owner in control of the animal may also be subject to a criminal citation.

(B) The City Council may, by resolution, authorize county officials to enforce, or assist in the enforcement of, this chapter. (1997 Code, § 4309)

§ 92.10 PET SANITATION.

(A) It shall be unlawful for any person to permit any animal owned or harbored by him or her to deposit fecal matter in any place other than the premises where the animal is harbored or kept, unless such fecal matter is immediately collected and removed to the premises where the animal is harbored or kept.

(B) It shall be unlawful for any person to walk any animal on any property not owned by such person, whether public or private, unless such person has an appropriate device for the collection of fecal matter in his or her immediate possession and an appropriate depository for the transmission of fecal matter to the premises where the animal is harbored or kept. (1997 Code, § 4313) Penalty, see § 92.99

§ 92.11 DUTY TO CONTROL DOGS.

(C) In addition, costs of the action may be taxed and imposed against the defendant.

(D) Costs are not limited to costs taxable in ordinary civil actions and may include all expenses, direct or indirect, to which the

It shall be unlawful for any dog of any age, licensed or unlicensed, wearing a collar or not wearing a collar, to run at large or go beyond the premises of its owner unless held properly in a leash; provided, however, that this section does not apply to working dogs such as service dogs and guard dogs, and such other working dogs which are actively engaged in activities for such the dogs are trained and are under the reasonable control of its owner.

Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter, or any amendment thereof, including the owner, possessor, or occupier of any premises within the City who allows or suffers the violation upon the premises, is "responsible" for having committed a municipal civil infraction, as provided for in Public Acts 12, 17 and 19 of 1994 being MCL 600.8701 et seq., 117.41, 117.29 and 89.2; the violation is punishable by a civil fine of \$50 for a first violation, \$100 for a second violation, and \$150 for a third violation.

(B) The City Council may hereafter modify, change, increase, or decrease the civil fines set forth above, by the adoption of a resolution to that effect as provided by law and this chapter.

plaintiff (the City or other enforcing municipality, agency, or other entity) has been put in connection with the municipal civil infraction, up to entry of judgment.

(E) In addition, any sanctions, writ,

other court order, or other post judgment remedy, as provided by law, necessary to enforce the ordinance and correct or abate a violation, or necessary to enforce any orders and determinations of the court, judge, or district court magistrate, including civil contempt proceedings, may be issued as appropriate and as provided for by law, including but not limited to the imposition of liens against real estate interests, seizure of property, attachment and garnishment and including post judgment enforcement costs and expenses as provided for by law, including any other enforcement authority set forth in any ordinance.

(F) This chapter is enforceable by the judge or magistrate, and by the City or other enforcing agency or entity to the fullest extent as provided by law relative to violations of municipal civil infractions.

(G) The enumeration of certain powers and remedies within this paragraph is not intended to restrict any enforcement authority or remedy or sanction provided for by law, specifically including Public Acts 12, 17, and 19 of 1994 being MCL 600.8701 et seq., 117.41, 117.29 and 89.2.

(H) Provided further, however, a violation of this chapter is not a misdemeanor and shall not be considered a lesser included offense of any criminal offense.

(I) Each day that a violation continues constitutes a separate and independent violation and is subject to the penalties provided for herein for each such violation.

(J) A violation of this chapter is hereby declared to be a public nuisance per se.

(K) The municipal civil infraction notice

or citation may be served personally or as otherwise provided by law and if the violation involves the use, condition, or occupancy of land or of a structure, the notice or citation may be posted upon the premises or attached to the structure at issue, with a copy sent by first-class mail to the owner at his or her last known address, and/or the owner and address as disclosed by the City tax rolls.

(L) Failure to appear or respond to any notice and/or citations relative to a municipal civil infraction shall be subject to the penalty as is otherwise provided by law.

(1997 Code, § 1105A)

CHAPTER 93: STREETS AND SIDEWALKS

Section

Sidewalks

- 93.01 Resolution
- 93.02 Specifications
- 93.03 Expense
- 93.04 Property owner’s right to initiate building or rebuilding of sidewalk(s)
- 93.05 Notice
- 93.06 Construction by City; payment
- 93.07 Records

The Council may at any time, following a properly scheduled and posted public hearing concerning the proposed project, by resolution, authorize, direct, and require that the owner of any lot or premise located in, adjacent to or abutting the public street right-of-way located within the City limits shall construct, rebuild, and/or repair any sidewalk located on, adjacent to or abutting upon the lot or premise. Sidewalk building or rebuilding may include driveway approaches for the purpose of this subchapter. (1997 Code, § 5101A) (Am. Ord. passed 9-14-1998)

Street Excavations and Obstructions

- 93.20 Permit required
- 93.21 Application for permit
- 93.22 Approved by City Engineer
- 93.23 Bond
- 93.24 Deposit
- 93.25 Supervision
- 93.26 Guarding excavations or obstructions
- 93.27 Safeguarding openings
- 93.28 Saving materials
- 93.29 Safeguarding pipes and conduits
- 93.30 Repaving
- 93.31 Revocation of permit

§ 93.02 SPECIFICATIONS.

The City shall specify the width, materials, and manner of construction, responsibility for payment of the expense of same, and the time within which the construction, rebuilding, and/or repair shall be accomplished. (1997 Code, § 5102A) (Am. Ord. passed 9-14-1998)

§ 93.03 EXPENSE.

(A) The City Council has decided that the cost of sidewalk building or rebuilding shall be split 50/50 between the City and the homeowner or business owner. Costs shall include all expenses associated with the

SIDEWALKS

§ 93.01 RESOLUTION.

project, such as, engineering, advertising, administration, construction, clean-up and landscaping, and the like.

(B) Commercial or business properties are required to pay for sidewalk improvements in a single lump sum, due on August 1, or other date as set by the City Council or City Manager.

(D) Payments that remain due on September 1 will be assessed a 10% penalty. Payments and penalties that remain due on October 1, will be added to the tax roll of the individual(s) concerned.

(E) Those individuals who have received a poverty exemption for property taxes under Public Act 390 of 1994 may have their share of costs waived by the City Manager following verification of their exemption.

(F) Individuals who have questions or concerns about costs and payment schedules may contact the City Manager. Decisions of the City Manager may be appealed to the City Council.

(1997 Code, § 5103A) (Am. Ord. passed 9-14-1998)

§ 93.04 PROPERTY OWNER'S RIGHT TO INITIATE BUILDING OR REBUILDING OF SIDEWALK(S).

(A) Should the owner or occupant of any lot or premises described in § 93.01 desire to build, rebuild, or repair any such sidewalk, the owner or occupant shall send a written request to the City Manager which shall be directed to the Streets and Sidewalks Committee of the City Council, which shall review the request and recommend to the City Council whether or not the requested action should be authorized.

(B) If it approves of the request, the

(C) Residential properties are required to pay for sidewalk improvements either in a single lump sum, or may elect to make 3 annual payments. Payments are due August 1, or other date as set by the City Council or City Manager.

City Council shall pass a resolution, which shall authorize the building or rebuilding of the sidewalk, the width, materials and manner of construction, and the time period by which the work shall be completed, and specify that the owner is to be responsible for the expense of the building or rebuilding, unless 2/3 of the elected Councilmembers vote to pay the part of the expense of building or rebuilding the sidewalk from the City's General Street Fund.

(1997 Code, § 5104A) (Am. Ord. passed 9-14-1998)

§ 93.05 NOTICE.

Within 5 days after the passing of any resolution authorizing the building or rebuilding pursuant to this subchapter, the City Clerk shall give written notice which shall consist of a copy of the resolution, in accordance with § 10.12, to the owner of any lot or premises on which the sidewalk is located or adjacent to and/or abutting upon the sidewalk which is to be built or rebuilt.

(1997 Code, § 5105A) (Am. Ord. passed 9-14-1998)

§ 93.06 CONSTRUCTION BY CITY; PAYMENT.

Should the owner of any such lot or premise refuse or fail to perform the building or rebuilding in the manner and within the time period prescribed by resolution after having

been duly notified to do so, or should the City Council authorize the sidewalk construction or rebuilding by resolution under § 93.01, the City Manager is hereby authorized to cause the same to be constructed or repaired. The expense of so doing shall be assessed to the owner or to the owner or occupant who filed a request for the repair or building along with a 10% penalty, which amounts shall be levied as a special tax or assessment upon the lot or premises located adjacent to and/or abutting or upon which the sidewalk is located. The Council shall direct that the amount together with the penalty as a special assessment shall be levied upon the premises and the same shall be collected in the same manner as other City taxes or the Council may collect the amount, together with the penalty aforesaid, from the owner or from the occupant who requested the

STREET EXCAVATIONS AND OBSTRUCTIONS

§ 93.20 PERMIT REQUIRED.

(A) It shall be unlawful for any person to do the following without first obtaining a permit therefor as provided in this subchapter:

(1) Making, or causing to be made, any excavation or opening in or under the surface or pavement of any street, alley, sidewalk, or other public place;

(2) Placing any obstruction on any part of any street, alley, sidewalk, or public place;

(3) Occupying any part of any street, alley, sidewalk, or public place for the purpose of construction, maintenance, or repair of property immediately adjacent thereto; or

building or rebuilding in an action of assumpsit, together with costs of suit, including actual attorney's fees.

(1997 Code, § 5106A) (Am. Ord. passed 9-14-1998)

§ 93.07 RECORDS.

The City Manager shall keep records of all sidewalk lines and grades in a book prepared for that purpose, which book shall be filed in the office of the City Clerk.

(1997 Code, § 5107A) (Am. Ord. passed 9-14-1998)

(4) Making, or causing to be made, any opening in or through any curb of any street, alley, or public place.

(B) The foregoing division shall not be applicable to:

(1) A duly authorized City official or employee, in the course of his or her employment;

(2) A person acting under contract with the City; or

(3) Any emergency requiring immediate action to preserve public or private property or the public safety; provided, that the emergency shall first be reported to the Police Department, which shall grant permission to make the necessary excavation or obstruction; and provided that an application for permit is made in the required manner on or before the close of the next

business day.
(1997 Code, § 5201) Penalty, see § 10.99

(1997 Code, § 5202)

§ 93.21 APPLICATION FOR PERMIT.

(A) The applicant for the permit shall furnish to the Clerk a signed statement showing:

(1) Where the opening or excavation is to be made, and the purpose and extent thereof;

(2) Where the obstruction is to be located or where the construction is to be carried on, and in all cases, the extent to which the street, alley, or public place is to be used for the purpose applied for;

(3) The time when the occupancy will commence, and the length of time it will continue; and

(4) The name of the person who will be in charge of the work, together with the other information as the Clerk shall direct.

(B) The fee for the permit shall be \$1.

(B) The bond shall become available for the payment of any damage to public or private property, and the payment for any personal injuries resulting from the excavation, obstruction, use, or work in connection therewith.

(C) The bond shall be filed with the Clerk.
(1997 Code, § 5204)

§ 93.24 DEPOSIT.

(A) Before approving the permit for the work, the City Engineer may require a deposit

§ 93.22 APPROVED BY CITY ENGINEER.

(A) On receipt of the application, the Clerk shall immediately notify the City Engineer, who shall investigate and, if satisfied that the work or occupancy is necessary and reasonable, shall endorse the application by signing his or her approval on the same.

(B) If the City Engineer shall determine that the application shall be granted only on certain conditions and for a certain limited time, he or she shall so state in his or her endorsement approving the application, and the permit shall be issued only subject to the conditions or limitations.

(1997 Code, § 5203)

§ 93.23 BOND.

(A) Before any permit is issued, the applicant therefor may be required to furnish a bond deemed adequate by the City Engineer.

to cover the cost of the repaving. The sum so deposited shall be paid to the Clerk, and be used solely for the purpose of paying for the repairing and repaving.

(B) After completion of the work, the City Engineer shall certify to the Clerk the cost of the work and the amount or any surplus remaining from the amount deposited. The surplus shall thereupon be returned to the applicant.

(1997 Code, § 5205)

§ 93.25 SUPERVISION.

(A) No pavement or curb in any street or alley shall be broken except under the direct supervision of the City Engineer or his or her representative, except in an emergency as heretofore provided.

(B) All excavations in connection with water supply, plumbing, or drainage shall be under the direct supervision of a licensed plumber.

(1997 Code, § 5206) Penalty, see § 10.99

§ 93.26 GUARDING EXCAVATIONS OR OBSTRUCTIONS.

(A) All openings, excavations, or obstructions shall be:

(1) Properly and substantially barricaded and railed off; and

(2) At night, provided with 3 or more red warning lights for each such opening, excavation, or obstruction.

(B) On long trenches or obstructions, warning lights crosswise of the flow of traffic shall not be over 5 feet apart, and parallel to the flow of traffic, not over 25 feet apart.

(C) The City Engineer shall determine what constitutes proper barriers and lighting.

(A) In excavations around or near other subsurface structures, pipes, conduits, or other devices, care must be taken to properly safeguard them from injury, and in case of interference or very close proximity to the same, the City Engineer shall determine how proper installation shall be made.

(D) The utmost care shall be exercised at all times in protecting life and property in the performance of the work, and the work shall be accomplished with as little as possible interference to traffic and the use of street, alley, or thoroughfare. Sufficient help and equipment shall be provided to expedite the work to the satisfaction of the City Engineer.

(1997 Code, § 5207) Penalty, see § 10.99

§ 93.27 SAFEGUARDING OPENINGS.

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to the workers, and to prevent cave-ins or wash-outs, which would tend to injure the thoroughfare or subsurface structure adjacent to the work.

(1997 Code, § 5208) Penalty, see § 10.99

§ 93.28 SAVING MATERIALS.

In excavating in paved streets, all materials of paving and ballasting must be removed to the side of the street with the least possible loss or injury to the same or the surrounding pavement.

(1997 Code, § 5209) Penalty, see § 10.99

§ 93.29 SAFEGUARDING PIPES AND CONDUITS.

(B) After the completion of the work, all trenches and excavations shall be promptly backfilled and thoroughly settled by wetting or tamping, and all excess material promptly removed from the job.

(C) Each person opening or excavating any street, alley, or thoroughfare shall keep an

account of all openings or excavations so made and, for 1 year after the opening or excavation, shall keep the same filled and in repair.

(D) Should the person fail to do so, the City Engineer shall give him or her notice to do so within 10 days and, if that person shall still fail to make the repairs, the City Engineer shall cause the repairs to be made, and the cost of the same shall be charged against the person to whom the permit was originally issued and may be collected by suit.

(1997 Code, § 5210) Penalty, see § 10.99

§ 93.30 REPAVING.

After the work is completed and proper settlement has occurred, the City will repave the opening and charge and collect the cost of the repaving from the person to whom the permit was granted.

(1997 Code, § 5212)

§ 93.31 REVOCATION OF PERMIT.

Any person receiving a permit under this subchapter who shall fail to comply with the provisions thereof, or with the conditions imposed by the City Engineer, shall be liable to have the permit suspended by the City Engineer, and shall not proceed with the work for which the permit was granted until the City Engineer shall order the same to proceed.

(1997 Code, § 5213)

CHAPTER 94: TREES, SHRUBS, AND PLANTS

Section

- 94.01 Control
- 94.02 Destruction
- 94.03 Overhanging trees and shrubs
- 94.04 Corner lots
- 94.05 Failure to trim
- 94.06 Planting of trees
- 94.07 Street tree replacement requirements

§ 94.01 CONTROL.

(A) The City Engineer shall have control over all trees, shrubs, and plants planted, or to be planted, in the public highways, parks, or other public places of the City. The City Engineer shall have power to plant, prune, spray, and otherwise maintain the trees, plants, and shrubs, and to determine the type or kind of trees to be planted.

(B) The words *PUBLIC HIGHWAY* shall be deemed to include all of the land lying between property lines on either side of all the public streets, boulevards, and alleys in the City. (1997 Code, § 5401)

§ 94.02 DESTRUCTION.

(A) No person shall cut down, deface, destroy, damage, or injure any tree, shrub, or plant upon the public highways or parks or other public places of the City, without first obtaining permission from the City

Engineer.

(B) No person shall fasten any wire, rope, chain, or cable to any tree or shrub for the purpose of anchorage, without a written permit from the City Engineer.

(C) No person shall nail, tie, or in any other manner fasten any cards, signs, posters, boards, or other article to any tree, shrub, or plant growing upon any public highway, park, or other public place in the City. (1997 Code, § 5402) Penalty, see § 10.99

§ 94.03 OVERHANGING TREES AND SHRUBS.

(A) Every owner of any tree, shrub, or plant overhanging the streets or highways within the City shall trim its branches so that they shall not obstruct the light from any street lamp, or obstruct the view of any street intersection, and so that there shall be a clear space of 12 feet above the surface of the street or highway.

(B) The owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs of trees that constitute a menace to the safety of the public. (1997 Code, § 5403) Penalty, see § 10.99

§ 94.04 CORNER LOTS.

In order that the view of the driver of a vehicle approaching the street intersection shall not be obstructed, all bushes, shrubs, or plants located on any corner lot within the City shall not be permitted to grow to
§ 94.05 FAILURE TO TRIM.

(A) In all cases of violation of §§ 94.03 or 94.04, the City Manager shall, by written notice given in accordance with § 10.12, order the owner of any tree, shrub, or plant, to trim or cut the same so as to comply with the provisions of this chapter. The order shall be complied with within a period of 10 days.

(B) Should the owner refuse or neglect to comply with the order within the 10-day period, the City Manager shall perform the necessary work. In that case, the City shall have an action at law against the owner of the premises for the cost and expenses incident to the work, and shall be entitled to a judgment for the same.

(C) Any failure to comply with the provisions of this chapter, or with any lawful order of the City Manager after due notice thereof, shall be a violation of this code and punishable as provided herein.
(1997 Code, § 5405) Penalty, see § 10.99

§ 94.06 PLANTING OF TREES.

(A) No tree, shrub, or plant shall be placed in any public street, park, or public place, except under the supervision of the City DPW Supervisor and in accordance with the provisions of this chapter.

(B) No cottonwood, poplar, box elder, or willow tree shall hereafter be planted in the public highways, parks, or other public places of the City.

the height of more than 3 feet above the surface of the roadway.

(1997 Code, § 5404) Penalty, see § 10.99

(1997 Code, § 5406) Penalty, see § 10.99

§ 94.07 STREET TREE REPLACEMENT REQUIREMENTS.

These replacement requirements govern the replacement of any undesirable street tree (undesirable is any street tree having characteristics which cause or may cause extreme problems in growth, maintenance, and use as a street tree. Examples: trees with poor health, disease, exceedingly slow growth rate, large-scale breakage and decay.) Responsibility for determining if a tree is undesirable rests with the Streets and Sidewalk Committee with the final approval for replacement by the City Council.

(A) The City Manager or their designee, shall recommend to the Streets and Sidewalk Committee the removal and replacement of an undesirable tree if, in their professional judgment or based on tree health, they determine it is not performing adequately as a street tree.

(B) A property owner may make a request for tree replacement by submitting a special tree replacement request to the City Manager or their designee, who will review the permit and submit it to the Streets and Sidewalk Committee with recommendation.

(C) If approved by the Committee, trees for replacement will be purchased and planted by the City in accordance with approved planting practices.

(D) Removal work will be governed by the availability of City's contractor to do the work. Timing of removal must consider the impact of the area. Block renovation replacements in a small area may be scheduled over a period of several years. The City reserves the right to do tree trimming and removal on an annual basis.

(E) The City Manager or their designee will determine the number of replacement trees to be planted. The number removed and the number planted may not necessarily be the same.

(F) The property owner may request placement from those trees on the approved tree planting list. However, final approval rests with the City Manager or their designee and the Streets and Sidewalk Committee, as well as tree availability.

(G) Trees that are questionable as to their removal will be looked at by the County or MSU Extension Service to help determine if the tree should be removed.

(H) The city will endeavor to avoid excessive damage to lawns, ground cover, and shrubs in the working area during removal and replanting.

CHAPTER 95: PUBLIC HEALTH

Section

Sanitation

- 95.01 Sewerage facilities required
- 95.02 Cleaning vaults, cesspools, and septic tanks
- 95.03 Miscellaneous
- 95.04 Outdoor privy

Restaurants

- 95.15 Definitions
- 95.16 License required

Slaughterhouses

- 95.50 Definitions
- 95.51 License

Cemetery Board

- 95.65 Generally

Cross-reference:

Nuisances, see Ch. 91

SANITATION

§ 95.01 SEWERAGE FACILITIES REQUIRED.

Cross-reference:

See Chapter 50

§ 95.02 CLEANING VAULTS, CESSPOOLS, AND SEPTIC TANKS.

(A) Whenever, in the opinion of the City DPW Supervisor, any vault, cesspool, or septic tank shall become offensive to the safety, health, comfort, convenience, or repose of the public, he or she shall give notice, in the manner provided in § 10.12, requiring the owner or occupant of the premises to clean, remove, or alter the vault, cesspool, or septic tank in a manner satisfactory to the City DPW Supervisor, within 5 days from the day of the notice.

(B) (1) Should the owner or occupant of the premises fail to clean, remove, or alter the vault, cesspool, or septic tank, or fail to connect to the system, as specified in § 95.01(A), within the time specified, the City Manager shall cause the work to be done.

(2) The expense of the work shall be levied and collected by special assessment upon the premises.

(3) The special assessment shall in each case be made in pursuance of a resolution of the Council, directing the same and specifying the amount thereof, and the lot or premises upon which the same shall be assessed, or, at the option of the Council, the charges may be collected in a suit at law.

(C) No person shall remove the contents

of any vault, cesspool, or septic tank except in a manner approved by the Department of Environmental Quality.

§ 95.03 MISCELLANEOUS.

(A) No person shall expectorate in any public place, except into a receptacle provided for that purpose.

(B) No person owning, in charge of, or in control of any lavatory or washroom for use of the public shall provide in or about the lavatory or washroom any towel for common use. As used in this section, the term *COMMON USE* shall mean use by more than 1 person without cleansing.

(1997 Code, § 6103) Penalty, see § 10.99

§ 95.04 OUTDOOR PRIVY.

(A) No person shall own or use an outdoor privy within the City.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

OUTDOOR PRIVY. A toilet that does not flush into a septic tank or the City sanitary sewer system.

(C) Temporary and portable facilities such as those known by the brand names "Porta-potties", "Port-A-Let", or "Port-A-John" are permitted with the case-by-case approval of the City.

(1997 Code, § 6104) Penalty, see § 10.99

RESTAURANTS

(1997 Code, § 6102) Penalty, see § 10.99

§ 95.15 DEFINITIONS.

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

EMPLOYEE. Any person who handles food or drink during preparation or serving, or who comes in contact with any eating or drinking utensil, or who is employed at any time in a room in which food or drink is prepared or served.

RESTAURANT. A *RESTAURANT*, coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich stand, soda fountain, ice cream or dairy bar, and all other eating and drinking establishments where food or drink, or both, are served or prepared, including kitchens or other places in which food or drink is prepared for sale elsewhere.

UTENSIL. Any kitchenware, glassware, cutlery, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.

(1997 Code, § 6201)

§ 95.16 LICENSE REQUIRED.

Any person or persons operating a restaurant within the City shall be properly licensed by the state and county and be subject to regular state and county control and inspection.

(1997 Code, § 6202) Penalty, see § 10.99

SLAUGHTERHOUSES

§ 95.50 DEFINITIONS.

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

§ 95.51 LICENSE.

(A) No person shall operate a slaughterhouse, or shall slaughter any animals for any other person within the City, unless he or she shall have the license therefor.

(B) (1) Any person wishing to operate a slaughterhouse within the City shall request approval from the City Planning Commission and City Council and shall be properly licensed by the state and county and be subject to regular state and county control and inspection.

(2) The application shall contain a description of the premises upon which the slaughterhouse is to be operated, and the names of the owners and operators of the slaughterhouse.

(C) The City Clerk shall turn the application over to the City Health Commissioner, who shall inspect the premises.

(1) The premises must be clean.

(2) The premises must have adequate equipment for:

(a) The humane slaughtering of animals;

ANIMAL. Any *ANIMAL*, the meat from which is intended to be used for human consumption.

GOVERNMENT-INSPECTED. Meat that has been inspected by a duly qualified agency of any state government or the federal government.

(1997 Code, § 6401)

(b) The disposing of the hides and remains; and

(c) The storing of the meat.

(D) All slaughterhouse premises shall have cooling facilities capable of cooling the meat slaughtered to 40°F.

(E) It shall be unlawful for any person to slaughter any animals within the City, the meat of which is to be used for human consumption, unless the animal, within 24 hours of slaughtering, shall be inspected by the City Veterinarian.

(F) It shall be unlawful for any person to sell meat for human consumption within the City, unless the meat has been Michigan-state-inspected or federal-government-inspected, and shall have the stamp of inspection thereon provided.

(1) If the meat has not been government-inspected and has not the stamp thereon, then it must be inspected by the City Veterinarian, who will affix his or her tag of approval thereon.

(2) The City Veterinarian shall not approve any animals for slaughtering that, in his or her opinion, will or are apt to

produce contaminated meat or meat unfit for human consumption.

(1997 Code, § 6402) Penalty, see § 10.99

CEMETERY BOARD

§ 95.65 GENERALLY.

(A) The Mayor, by and with the consent of Council, shall appoint 5 trustees, who shall be freeholders and electors in the City, and who shall constitute a Board of Cemetery Trustees (hereinafter called "the Board").

(1) Except at the first appointment, the 5 trustees so appointed shall hold their

(C) The Board of Cemetery Trustees shall be the successor to the Brown City Cemetery Association, and shall accept and preserve its records.

(D) The Board shall have the care and management of the City Cemetery.

(1) The Board shall direct the improvement of the grounds.

(2) The Board shall cause the grounds to be laid out into lots, streets, and walks, the lots to be numbered, the streets and walks to be named, and plats thereof to be made and recorded in the office of the City Clerk.

(3) The Board shall have the power to take, receive and hold any property, real or personal, by cash, devise or otherwise, which may be granted, transferred, or devised to the Board in trust, for the purpose of caring for and keeping in good order and repair any given lot or lots, or portions thereof, specified in any trust, or for the

offices for the term of 5 years.

(2) At the first appointment, 1 trustee shall be appointed for 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years; from the first Monday in May of the year when appointed; and annually thereafter 1 trustee shall be appointed.

(B) (1) The Board of Cemetery Trustees shall appoint 1 of their members chairman.

(2) The City Clerk shall act as clerk for the Board.

(3) The other officers of the Board shall be appointed by themselves from among their own number.

general purpose of maintenance of the cemetery in general.

(4) The Board shall fix the price of lots, and make sales thereof, and conveyance of the lots shall be executed on behalf of the City by the City Clerk, and recorded in the Clerk's office at the expense of the purchaser.

(E) The Board shall appoint the necessary employees for the care and maintenance of the grounds, the care and protection of the grounds, monuments and appurtenances of the cemetery, and the orderly conduct of persons visiting the grounds as may be consistent with City ordinances and state laws.

(F) There is hereby established an Endowment Fund for the perpetual care of the City Cemetery.

(1) This Fund shall be kept separate and apart from other cemetery funds.

(2) The Board shall invest this Fund in sound securities designated for the investment of savings banks and trust companies in the state.

(3) Into this Fund shall also be paid all funds received for the perpetual care of lots.

(4) The Board shall have the power to take, receive, and hold real or personal property, by gift, devise, or otherwise, which may be granted, transferred, or devised to the Board for the perpetual care and maintenance of the City Cemetery, and the property shall become part of this Endowment Fund.

(1997 Code, § 6601)

CHAPTER 96: ABANDONED VEHICLES

Section

| | | |
|-------|--------------------|--|
| 96.01 | Definition | motor or other main drive parts not in working condition; or |
| 96.02 | Prohibitions | |
| 96.03 | Overhaul or repair | |

96.99 Penalty

Cross-reference:

General Offenses, see Title XIII
Nuisances, see Ch. 91
Public Health, see Ch. 95
Streets and Sidewalks, see Ch. 93
Traffic Code, see Title VII

(4) Any motor vehicle that has been abandoned and parked on any City right-of-way for a period of 14 days without having been removed or operated.
 (1997 Code, § 6701)

§ 96.02 PROHIBITIONS.

§ 96.01 DEFINITION.

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

JUNK AUTOMOBILE.

(1) A motor vehicle that is not in operating condition and/or could not pass the state police safety test for an automobile to be operated on the public highways of the state;

(2) An automobile that is unlicensed for the current license year;

(3) An automobile incapable of being operated by reason of a broken windshield, or lack of battery, or lack of tires, or a

(A) It shall be unlawful for any person to store, leave, or abandon a junk automobile upon a City public right-of-way.

(B) It shall be unlawful and deemed a public nuisance for any person to store a junk automobile upon any premises within the City, within the vision of passersby for a period in excess of 2 weeks, unless the junk automobile is stored within a junk yard or enclosed building so the same is not readily in view of the public passersby.

(C) This section shall not be construed to prevent garages and repair shops from repairing motor vehicles.
 (1997 Code, § 6701) Penalty, see § 96.99

§ 96.03 OVERHAUL OR REPAIR.

Any persons who wish to overhaul or repair a motor vehicle for more than 1 day shall do

the same in a garage for such purpose, or in an enclosed building or structure, so that the motor vehicle being repaired or overhauled shall be kept from view of the passersby and users of the City right-of-way.

§ 96.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this chapter, or any amendment thereof, including the owner, possessor, or occupier of any premises within the City who allows or suffers the violation upon the premises, is “responsible” for having committed a municipal civil infraction, as provided for in Public Acts 12, 17 and 19 of 1994 being MCL 600.8701 et seq., 117.41, 117.29 and 89.2.

(2) The violation is punishable by a civil fine of:

(a) \$50 for a first violation;

(b) \$100 for a second violation;

and

(c) \$150 for a third violation.

(B) The City Council may hereafter modify, change, increase, or decrease the civil fines set forth above, by the adoption of a resolution to that effect as provided by law and this chapter.

(C) In addition, costs of the action may be taxed and imposed against the defendant.

(D) Costs are not limited to costs taxable in ordinary civil actions and may include all expenses, direct or indirect, to which the plaintiff (the City or other enforcing municipality, agency, or other entity) has been put in connection with the municipal civil infraction, up to entry of judgment.

(1997 Code, § 6701)

(E) In addition, any sanctions, writ, other court order, or other post judgment remedy, as provided by law, necessary to enforce this chapter and correct or abate a violation, or necessary to enforce any orders and determinations of the court, judge, or district court magistrate, including civil contempt proceedings, may be issued as appropriate and as provided for by law, including but not limited to the imposition of liens against real estate interests, seizure of property, attachment and garnishment and including post judgment enforcement costs and expenses as provided for by law, including any other enforcement authority set forth in any ordinance.

(F) This chapter is enforceable by the judge or magistrate, and by the City or other enforcing agency or entity to the fullest extent as provided by law relative to violations of municipal civil infractions.

(G) The enumeration of certain powers and remedies within this section is not intended to restrict any enforcement authority or remedy or sanction provided for by law, specifically including Public Acts 12, 17, and 19 of 1994 being MCL 600.8701 et seq., 117.41, 117.29 and 89.2.

(H) Provided further, however, a violation of this chapter is not a misdemeanor and shall not be considered a lesser included offense of any criminal offense.

(I) Each day that a violation continues constitutes a separate and independent violation and is subject to the penalties

provided for herein for each such violation.

(J) A violation of this chapter is hereby declared to be a public nuisance per se.

(K) (1) The municipal civil infraction notice or citation may be served personally or as otherwise provided by law; and

(2) If the violation involves the use, condition, or occupancy of land or of a structure, the notice or citation may be posted upon the premises or attached to the structure at issue, with a copy sent by first-class mail to the owner at his or her last known address, and/or the owner and address as disclosed by the City tax rolls.

(L) Failure to appear or respond to any notice and/or citations relative to a municipal civil infraction shall be subject to the penalty as is otherwise provided by law.

(1997 Code, § 1105A)

CHAPTER 97: HAZARDOUS MATERIALS

Section

- 97.01 Purpose
- 97.02 Definition
- 97.03 Duty to remove and clean up
- 97.04 Failure to remove and clean up
- 97.05 Enforcement

explosives, radioactive materials, petroleum or petroleum products or gases, poisons, biologic agents, flammables, and corrosives. Determinations as to whether any particular substance is a *HAZARDOUS MATERIAL* shall be made by the Fire Chief or his or her authorized representative.

(Ord. 16, passed 5-9-1994)

§ 97.01 PURPOSE.

The purpose of this chapter is to enable the City to require reimbursement from those responsible for the leaking, spilling, or otherwise allowing certain dangerous or hazardous substances or materials to escape containment, thereby requiring cleanup and disposal by the City or its agents.
(Ord. 16, passed 5-9-1994)

§ 97.03 DUTY TO REMOVE AND CLEAN UP.

It shall be the duty of any person or entity that causes or controls leakage, spillage, or any other dissemination of dangerous or hazardous substances or materials to immediately remove such, and to clean up the area of the spillage in the manner that the area involved is fully restored to its condition before such happening.
(Ord. 16, passed 5-9-1994) Penalty, see § 10.99

§ 97.02 DEFINITION.

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

HAZARDOUS MATERIALS. Any substance spilled, leaked, or otherwise released from its container that is dangerous or harmful to the environment or human or animal life, health or safety, or is obnoxious by reason of odor, or constitutes a danger or threat to the public health, safety, or welfare; and shall include, but not be limited to such substances as chemicals and gases,

§ 97.04 FAILURE TO REMOVE AND CLEAN UP.

(A) Any such person or entity that fails to comply with § 97.03 shall be liable to, and shall pay the City for its costs and expenses, including the costs incurred by the City to any party it engages, for the complete abatement, clean up, and restoration of the affected area.

(B) Costs incurred by the City shall include, but shall not necessarily be limited

to, the following: actual labor costs of City personnel, including worker's compensation benefits, fringe benefits, administrative overhead; cost of equipment operation, cost of materials obtained directly by the City; and cost of any contract labor and materials.

If any person or entity fails to reimburse the City, as above provided, the City shall have the right to bring an action in the appropriate court to collect the costs. If the person or entity is the owner of the affected property, the City shall have the right to add any and all costs of clean up and restoration to the tax roll as to the property, and to levy and collect the costs in the same manner as provided for the levy and collection of real property taxes against the property.

(Ord. 16, passed 5-9-1994)

(Ord. 16, passed 5-9-1994)

§ 97.05 ENFORCEMENT.