

Chapter 15

OFFENSES AND MISCELLANEOUS PROVISIONS

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ARTICLE I. IN GENERAL

Section 01. Adoption of certain sections of statutes.

(a) The following sections of Minnesota Statutes are hereby adopted by reference and shall be in full force and effect in this City as if they were set out in whole herein:

- (1) 609.05 Liability for crimes of another
- (2) 609.085 Sending written communication
- (3) 609.175 Conspiracy
- (4) 609.22 Assault
- (5) 609.27 Coercion
- (6) 609.37 Definition of child
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- (8) 609.40 Flag
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- (30) 609.66 Dangerous weapons
- (31) 609.675 Exposure of unused refrigerator or container to children
- (32) 609.68 Unlawful deposit of garbage, litter or like
- (33) 609.685 Use of tobacco by children
- (34) 609.705 Unlawful assembly
- (35) 609.715 Presence at unlawful assembly
- (36) 609.72 Disorderly conduct
- (37) 609.725 Vagrancy
- (38) 609.735 Concealing identity
- (39) 609.74 Public nuisance
- (40) 609.745 Permitting public nuisance
- (41) 609.75 Gambling; definitions
- (42) 609.755 Acts of or relating to gambling
- (43) 609.775 Divulging telephone or telegraph message; non-delivery
- (44) 609.78 Emergency telephone calls
- (45) 609.785 Fraudulent long-distance calls
- (46) 609.79 Obscene or harassing telephone calls
- (47) 609.795 Opening sealed letter, telegram or package
- (48) 609.805 Ticket scalping
- (49) 609.81 Misconduct of pawn brokers
- (50) 609.815 Misconduct of junk or secondhand dealer
- (51) 609.82 Fraud in obtaining credit
- (52) 340.731 Minors, forbidden acts or statements (Repealed 1985)

(b) It shall be unlawful for any person to violate any of the sections adopted by reference in this section and any person convicted of violating any of these sections shall be punished as provided by State law. Violation of each section hereof shall be deemed a separate violation.

Section 02. Public nuisance generally; penalty.

Whoever by his act or failure to perform a legal duty intentionally does any of the following shall be guilty of maintaining a public nuisance and shall be subject to the penalty provisions of Section 08 of Chapter 1:

(a) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or

(b) Interferes with, obstructs or renders dangerous for passage, any public street or right-of-way of waters used by the public; or

(c) Is guilty of any other act or omission declared by ordinance to be a public nuisance and for which no sentence is specifically provided. {Ord. No. 96, Sec. 1, 8/7/33}

Section 03. Curfews for minors.

(a) It shall be unlawful for any person under the age of sixteen (16) to be present upon any public street, alley, or other public or quasi-public place in the City between the hours of 10:00 p.m. and 5:00 a.m. unless:

(1) Accompanied by a parent, guardian, employer or some other person of legal age having charge of the minor's lawful care, custody and control;

(2) Returning home by direct route from and within thirty (30) minutes after a school activity, an activity of religious or supervised voluntary association, such as scouts, 4-H, community leagues or other community events. Examples of community events shall include dances, community celebrations and carnivals;

(3) Is in a place or returning home from such place, connected with and required by some legitimate business, trade, profession or occupation in which the minor is permitted by law to be engaged.

(b) It shall be unlawful for any person age sixteen (16) or seventeen (17) to be present upon any public street, alley, or other public or quasi-public place in the City between the hours of 12:00 a.m. and 5:00 a.m. unless:

(1) Accompanied by parent, guardian, employer or some other person of legal age having charge of the minor's lawful care, custody and control;

(2) Returning home by direct route from and within thirty (30) minutes after a school activity, an activity of religious or supervised voluntary association, such as scouts, 4-H, community leagues or other community events. Examples of community events shall include dances, community celebrations and carnivals;

(3) Is in a place or returning home from such place, connected with and required by some legitimate business, trade, profession or occupation in which the minor is permitted by law to be engaged.

(c) For the purpose of this Ordinance quasi-public place shall be defined as an area in private ownership which is established for the convenience of the public as members, invited guests, or business visitors and shall include, but not necessarily be limited to, parking lots, business establishments, shopping center areas, school and church grounds, or arcade amusement centers. (Ord. No. 153, Secs. 1-3, 2/1/54; Ord. No. 315, Sec. 2, 11/15/81; Ord. No. 545, Sec. 1, 4/18/94)

Section 04. Parental responsibility.

It shall be unlawful for any parent, guardian, employer or other person of legal age who is entitled to the legal custody of any minor person under the age of eighteen (18) to permit any such person to be upon any public street, alley, park or other public or quasi-public place in the City during such curfew hours. (Ord. No. 153, Sec. 4, 2/1/54; Ord. No. 545, Sec. 2, 4/18/94)

Section 05. Offensive conduct toward officer of the City prohibited.

It shall be unlawful for any person to use any rude, offensive, abusive, obscene or threatening language or gesture to any police officer, members of the Fire Department or any other officer or employee of the City while such person is performing in his official capacity as an officer or employee of the City.

Section 06. Using houses for prohibited acts prohibited.

It shall be unlawful for any person to use any house within the City for the purposes of prostitution or any other prohibited purposes or for any person to permit any house owned or occupied by him to be used for such purposes.

Section 07. Selling cigarettes containing certain drugs prohibited.

No person shall keep for sale, sell or dispose of any cigarette containing opium, morphine, jimson weed, belladonna, strychnia, cocaine, marijuana or any other deleterious or poisonous drug except nicotine. (Ord. No. 122, Sec. 5, 11/3/41)

Section 08. Obscene publications.

It shall be unlawful for any person to sell, offer for sale or otherwise distribute, any indecent or obscene picture, book, pamphlet, magazine or newspaper. (Ord. No.96, Sec. 3, 8/7/33)

Section 09. Dangerous conditions.

It shall be unlawful for any person to maintain or permit any condition or thing which is liable to cause injury to any person or property to remain in the City. (Ord. No.96, Sec. 4, 8/7/33)

Section 10. Dangerous machinery.

No person shall permit any dangerous unguarded machinery to stand in any public place, or be so situated or operated on private property as to attract the public. (Ord. No.96, Sec. 4, 8/7/33)

Section 11. Polluting waters prohibited.

(a) It shall be unlawful for any person to pollute any public well or cistern, stream, lake, canal or body of water in the City by any means.

(b) Any person violating this section shall be punished as provided in this Code. (Ord. No.96, 2, 8/7/33)

Section 12. Pools of stagnant water prohibited.

No person shall keep or permit to accumulate any pond or pool of stagnant water. (Ord. No.96, 2, 8/7/33)

Section 13. Animal carcasses to be buried or destroyed.

All carcasses of animals shall be buried or destroyed within twenty-four (24) hours after death, any carcass not so disposed of is hereby declared to be a nuisance and may be removed and abated as I. (Ord. No.96, Sec. 2, 8/7/33)

Section 14. Consuming liquor on public property.

No person shall consume any intoxicating liquor or non-intoxicating malt liquor on any public street alley, including sidewalks, within the City of Chaska, nor in the public square located in Block 28 in the of Chaska, except that non-intoxicating malt liquor may be sold and consumed in said public square located in Block 28 in the City of Chaska during public celebrations, officially recognized as such by ,resolution of the City Council. (Ord. No.189, Sec. 19(c); Ord. No. 189.2, Sec. 1, 6/4/73; Ord. No.238, Sec. 1, 6/7/76)

Section 15. Peeping into or loitering near windows.

It shall be unlawful for any person, without the consent of owner or person residing within, to look, or peep into or loiter around or within the view of any window of a structure

wherein humans reside the intent of interfering with the rights or privacy of another. (Ord. No.271 , Sec. 1 (a), 11/6/78)

Section 16. Public nudity

It shall be unlawful for any person voluntarily to enter the water of any lake, public swimming area, public swimming pool or to loiter, lounge upon or near any public beach, park, street or any other public ground in a state of nudity as defined in Minnesota Statutes, Section 617.292, Subdivision 2. (Ord. No. , Sec. 1 (b), 11/6/78)

Section 17. Issuance of citations.

Subdivision 1. Except as otherwise provided by Statute, only a Peace Officer and Part-time Peace Officer may:

- (a) Ask a person receiving a citation to give a written promise to appear in court; or
- (b) Take a person into custody as permitted by Minnesota Statutes 629.34 (1986).

Subdivision 2. The following City individuals may issue citations in lieu of arrest for violations of the City Code. Areas of jurisdiction will be contained in City policy as set forth in resolution form by the City Council.

- (a) Peace Officers and Part-time Peace Officers
- (b) Reserve Officers
- (c) Community Service Officers
- (d) Zoning Administrator
- (e) Building Inspector
- (f) Public Works Director
- (g) Fire Inspector Officers

(Ord. No. 421 , Sec. 1, 9/8/87)

Section 18. Exterior Storage

(a) In all Residential Zoning Districts, except R-Rural and RR-Rural Residential, all materials, machinery and equipment shall be stored within a building or fully screened so as not to be visible from adjoining or adjacent lands, except for the following: laundry drying and recreational equipment; construction materials, machinery and equipment currently being used on the premises; landscaping and agricultural equipment and machinery currently being used or intended for use on the premises; trash and garbage receptacles; and off-street parking as regulated by Section 9.2 of the Zoning Ordinance.

(b) The use of truck trailers for the permanent or temporary storage of materials and products for more than seven (7) calendar days shall be prohibited except when fully screened from public view or enclosed within a building. (Ord. No. 758, Section 18., 12-29-03.)

Sections 19 through 30. Reserved.

ARTICLE II. DISCHARGE OF WEAPONS

Section 31. Definitions.

Bow and arrow: Means a bow and arrow or a bow and arrow drawn, held or released by a mechanical device.

Firearm or weapon: Means any gun, rifle, pistol, handgun, air rifle, shotgun, air gun, BB gun, whether compressed air or spring loaded or slingshot.

Hunt or hunting: Means the pursuing, stalking, chasing, driving or tracking of birds or animals while in possession of a firearm or a bow and arrow.

Trap: Means any mechanical device, snare, net or other contrivance used or designed to capture any wild animals or bird.

Trapping: Means the use of or laying or setting of a trap or traps. (Ord. No. 227, Sec. 1, 2/2/76; Ord. No.319, Sec. 1, 1/18/82; Ord. No. 320, Sec. 1, 1/18/82; Ord. No. 321, Sec. 1, 1/18/82)

Section 32. Prohibition against discharge of firearms, hunting and trapping.

Except as hereinafter provided, it shall be unlawful to fire or discharge any firearm or weapon, to hunt or engage in hunting, or to trap or engage in trapping, or employ the use of a trap defined herein, within the City of Chaska, Carver County, Minnesota. (Ord. No. 227, Sec. 3, 2/2/76; Ord. No. 319, Sec. 2, 1/18/82; Ord. No. 454, Sec. 1, 8/27/90)

Section 33. Exceptions to Section 32 of this chapter

(a) The provisions of Section 32 of this chapter shall not apply to the discharge of any weapon or firearm described herein when discharged within a "gun or rifle" range under the control and supervision of the Carver County Sheriff's Department or the Chaska City Police Department, or such other indoor firing range approved by the Building Inspection Department of the City.

(b) The provisions of Section 32 of this chapter shall not apply to the discharge of a bow and arrow when discharged within a "bow and arrow" range under the control or supervision of Chaska City Parks and Recreation Department or such other archery range as approved by the City.

(c) The provisions of Section 32 of this chapter shall not prohibit the use of any gun, weapon or firearm or bow and arrow in the lawful defense of person, property, family, or in the defense or enforcement of the laws of the City, County, State or United States.

(d) The provision of Section 32 of this chapter shall not apply to a person or his or her employee or agent who employs a trap on their own private property to prevent an unsafe condition or the waste or destruction of their property when such persons have complied with the laws of the State of Minnesota and further provide that any traps so set pursuant to this Subsection(d) shall be set and tended in a way which does not constitute a danger to persons, domestic or wild animals which are not considered pests or a nuisance.

(e) Provisions of Section 32 of this chapter shall not apply to representatives of the City of Chaska, County of Carver, State of Minnesota, or the United States of America who may, in the course of duties, be required to use a firearm or weapon or bow and arrow or trap to catch, trap, snare, kill or otherwise restrain the free movement of any animal, wildlife or birds, for humane or other authorized purposes.

(f) The provisions of Section 32 of this chapter regarding the prohibition of the use of traps shall apply to teachers for school programs or scientists or other persons having in his or her possession a special permit issued by the Commissioner of Natural Resources for the State of Minnesota pursuant to Minnesota Statutes, Section 97A.401 for protected animals and 97B.651 for unprotected animals.

(g) The provision of Section 32 of this chapter shall not apply to any land situated within the City of Chaska under the management of the United States Department of Interior, Fish and Wildlife Service of the Department of Natural Resources, Division of Fish and Wildlife of the State of Minnesota when such persons are abiding by the rules and regulations promulgated by the U.S. Fish and Wildlife Service or the Department of Natural Resources of the State of Minnesota for the hunting or trapping of animals or birds on property under their control and management.

(h) The provisions of Section 32 of this chapter regarding the prohibition against discharge of a bow and arrow shall not apply if the discharge of such bow and arrow is in accordance with the provisions of Section 35 of this Ordinance. (Ord. No. 454, Sec. 2, 8/27/90)

Section 34. Controlled harvest of deer or other animals or birds by the City.

The City of Chaska may, without violating the provisions of Section 32 of this chapter, authorize a controlled harvest of deer population, or any other animals or birds, and in so doing permit the discharge of such firearms, bow and arrows or use of traps as deemed appropriate during such harvest. Prior to any such controlled harvest by authorization of City, the Council shall request of the Chief of Police, or his designated representatives, a report on the population within the City of the type of animal or bird to be harvested. Such report shall take into consideration the number of deer/auto accidents within the City, reports of loss of ornamental trees or shrubs, deer sighting or such other information as deemed necessary or an actual survey of the deer population.

In the event the City shall permit such controlled harvesting same shall be conducted in the area of the City and pursuant to and only in accordance with the rules, regulations and in the manner promulgated by the City. (Ord. No. 454, Sec. 3, 8/27/90)

Section 35. A bow and arrow may not be discharged within the boundaries of the City of Chaska.

(a) The discharge of a bow and arrow is permitted within the following areas of the City of Chaska hereinafter regulated upon securing a permit to do so from the City. Application for such permit shall be obtained from the City Clerk. The permitted areas are as follows:

That part of the City of Chaska lying northerly and westerly of the Chicago, Northwestern Railroad tracks and westerly of McKnight Road and easterly of Bavaria Road; that part of Sections 30, 31 and 32, Township 115, Range 23, in the City of Chaska lying southerly and westerly of County Road 11; that part of the south half of Section 3, Township 115, Range 23 situated in the City of Chaska and that part of the east half of Section 34, Township 115, Range 23, lying northerly of T.H. 212 south of Pioneer Trail (County Road 14) and easterly of NSP Power Company's high line running in a north-south direction through said Section 34.

(b) The application for such permit shall be in writing, accompanied by a fee in the amount of ten dollars (\$10.00), addressed to the City Council and shall state:

(1) The purpose for requesting such permit;

- (2) The length of time for which the permit is requested shall not be greater than the time allowed for the hunting of deer as provided for by the Commissioner of the Department of Natural Resources for the State of Minnesota;
- (3) The type of bow and arrow to be discharged;
- (4) The names of the owner or at least one of the owners if in multiple ownership upon whose property the applicant desires to discharge such weapon;
- (5) The signature of such owner or owners of said property granting approval therefore; and
- (6) Such other information as may be deemed necessary by the City;
- (7) Proof of a valid license to hunt deer with a bow and arrow issued by the appropriate authority.

(c) The granting of such permit shall be solely in the discretion of the City and shall be invalid unless executed by the City Clerk or the Clerk's designated representative. Any person obtaining such a permit shall have same on his person while carrying a bow and arrow in the above described permitted area. The provisions of this Subsection (c) requiring a permit shall not apply to any person using a bow and arrow described in Subsection (a) on land owned or occupied as a usual place of abode by himself or herself or his or her parent or their issue.

(d) Any person so employing a bow and arrow as above provided who is engaged in the hunting of deer, in addition to complying with the ordinances of the City of Chaska, shall comply with all the rules and regulations relating to the hunting with bows and arrows as established by the laws of the State of Minnesota.

(e) Nor shall any bow and arrow be discharged in any of the following areas within the permitted hunting area:

- (1) Within any platted subdivision or industrial park in the City.
- (2) Within five hundred (500} feet of any dwelling or other building constructed or occupied by or for human habitation or the storing of animals.
- (3) Within five hundred (500} feet of any City parkland, including ravine system, or school property. (Ord. No.454, Sec. 3, 8127/90}

Sections 36 through 50. Reserved.

ARTICLE III. NOISE AND ODORS

Section 51. Unnecessary noise or odors generally.

(a) No person, in any public or private place, shall make or assist in making, by any manner or means, any loud, unpleasant, or raucous noise or odor disturbing to others, unless the same be reasonably necessary to the preservation of life, health, safety or property. This section is enforceable twenty-four (24) hours a day.

(b) No person shall use or maintain any sound-amplifying equipment when the use or maintenance of such equipment creates noise so loud and unnatural in their time, place, use or maintenance as to annoy, injure, or endanger the safety, health, comfort, or repose of any persons. This section is enforceable twenty-four (24) hours a day.

Section 51.1. Noisy Assembly.

Subdivision 1. Definition:

The term "noisy assembly" shall mean a gathering of more than one person in a residential area or building between the hours of 10:00 p.m. and 7:00 a.m. that produces noise that unreasonably disturbs the peace, quiet, or repose of a person or persons of ordinary sensibility.

Subdivision 2. Prohibition:

(a) No person shall participate in, visit, or remain at a gathering owing or having reason to know that the gathering is a noisy assembly, except persons who have come to the gathering-for the sole purpose of abating the disturbance.

(b) No person shall knowingly permit real estate under such person's care or control to be used for a noisy assembly. This section is enforceable during the hours stated. (Ord. No.530, Secs. 1, 2, 06/21/93)

Section 52. Outdoor Power Implement/Construction Activities

(a) Except as hereinafter provided, no person shall engage in, permit, or allow construction activities involving the use of power equipment and certain hand tools, including but not limited to any kind of electric-, diesel-, gas-powered machines or hammers, any time other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturdays and between the hours of 8:00 am and 9:00 pm on Sundays and legal holidays.

(b) Construction activity on public improvement projects under the operation and control of the State of Minnesota, or an agency thereof, County of Carver or the City of Chaska, on public improvements generally for the benefit of the public may, upon application to the City, and for good cause shown, upon approval of the City Council, commence prior to 7:00 a.m. but no earlier than 6:00 a.m. where it is determined by the City Council that to do so would be in the best interest of the public.

Said application shall include, together with such other information as reasonably requested by City, a work plan outline, detailing that the need for an earlier start time is not merely a convenience but needed to adhere to an accelerated or established project schedule. Further, the application shall include the types of activities that will occur before 7:00 a.m.

Section 53. Construction activities.

No person shall engage in, permit, or allow construction activities involving the use of power equipment and certain hand tools, including but not limited to any kind of electric, diesel, gas-powered machines, or hammers, any time other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, Monday through Friday; Saturdays between the hours of 8:30 a.m. and 7:00 p.m.; Sundays and legal holidays, construction activities shall be prohibited. (Ord. No. 609, Sec. 2, 08-19-96)

Section 54. Emergency exceptions.

Situations wherein immediate work is necessary to restore property to a safe condition or when immediate work is required to protect persons or property from imminent exposure to danger are exempt from operational limits. (Ord. No. 415, Sec. 1, 08-17-87)

Section 55. Excessive Vehicular Noise Prohibited.

Operators of any and all motorized vehicles within the City of Chaska shall be in compliance with Minnesota Statute 169.69 (Muffler); and Minnesota Statute 169.693 (Motor Vehicle Noise Limits), which references Minnesota Rules Chapter 7030 (Minnesota Motor Vehicle Noise Limits). (Ord. No. 670, Sec. 1, 04-17-00)

Sections 56 through 65. Reserved.

ARTICLE IV. RESIDENTIAL PICKETING

Section 66. Definition.

For the purpose of this Ordinance, "targeted residential picketing" means an activity focused on a single residential dwelling without the consent of the dwelling's occupant.

Section 67. Targeted residential picketing.

The City of Chaska has an interest in the protection of residential privacy within the City of Chaska and protecting the well-being, tranquility and privacy of the home which is certainly the highest order in and civilized society. The City Council of the City of Chaska further finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedom of speech and expression.

Section 68. Prohibited.

No person shall engage in targeted residential picketing within the City of Chaska.

Section 69. Penalty.

Every person convicted of a violation of any provision of this Ordinance shall be guilty of a misdemeanor .

Section 70. Severability.

Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid. (Ord. No.533, Sec. 1, 6/21/93)

Sections 71 through 80. Reserved.

ARTICLE V. TRESPASSING

Section 81. Trespassing upon the land of another.

(a) No person shall intentionally trespass upon the land of another and/or, without claim of right, refuse to depart therefrom on demand of the lawful possessor thereof or the possessor's agent. A demand to depart may be made as follows:

- (1) Orally or in writing by the lawful possessor or the possessor's agent; or

(2) By conspicuously posting at reasonable intervals signs which prohibit trespass on the affected land; or

(3) By conspicuously posting at reasonable intervals signs which prohibit trespass on the affected land during certain hours.

(b) No person who has received a demand to depart pursuant to clause (1) of paragraph (a) of this section shall re-enter the lawful possessor's agent who provided said demand, for a period of up to ninety (90) days from the date of the demand. (Ord. No.528, Sec. 1, 6/21/93)

Sections 82 through 90. Reserved.

ARTICLE VI. UNCLAIMED AND ABANDONED PROPERTY

Section 91. Custody and disposal of unclaimed and abandoned property.

(a) Unclaimed property generally: Whenever any personal or chattel property of any nature or description shall have lawfully come into the possession of the City of Chaska in the course of any of its municipal operations, including the seizure and confiscation thereof by the police of the City of Chaska or other law enforcement agencies, and such property has remained unclaimed by the owner and has been in the possession of the municipality continuously for a period of at least ninety (90) days; such property may be ordered sold by Resolution of the City Council to the highest bidder at public auction.

(b) Notice of sale: Two (2) consecutive weeks published notice shall be given in the official newspaper of the City of Chaska that such property will be sold at public auction, such sale shall be held not less than three (3) days following the date of the last publication.

(c) Requisites of notice: Each notice shall contain a general description of the items of property to be sold; the date, time and place of sale; and may, if appropriate, include the approximate date and the manner under which the said property came into the possession of the City of Chaska.

(d) Sale, conduct thereof: The sale should be made by the City Administrator or his designated representative at public venue to the highest bidder. Such sale may be postponed from time to time by inserting a notice of such postponement as soon as practicable in the newspaper in which the original advertisement was published and continuing such publication until the time to which the sale is postponed.

(e) Certificate of sale: If any sale of such property is made, the officer conducting such sale shall make and deliver to the purchaser a bill of sale containing a description of the property sold, the price paid for each item, and the time and place of the sale and the name of the purchaser.

(f) Proceeds of sale: All proceeds of such sale shall be deposited by the City Administrator in the general fund of the City. At any time within six (6) months from the date of such sale the true owner of any item or property may make application to the City for payment to him of the proceeds of such sale. Upon furnishing the City with satisfactory proof of such ownership within six (6) months of sale date the City Council shall order the sale price to be paid to such true owner after deducting therefrom actual or reasonable costs and expenses necessarily expended by the City in the conduct of such sale and the storage and care of such property.

(g) Encumbrances: Whenever the true owners present a claim to the City for the payment to him of the sale price of any article of property sold by the City as hereinbefore set forth such owner shall furnish satisfactory proof to the City that there are and were no encumbrances covering any of the property or articles claimed by him.

(h) Inapplicability: The provision of this section shall not apply to domestic animals or abandoned motor vehicles, the sale or disposal of which is provided elsewhere in the Code of Ordinances, City of Chaska, Minnesota. (Ord. No.247, Secs. 1-8,3/21/77)

Sections 92 through 100. Reserved-

ARTICLE VII. TOBACCO CONTROL PROGRAM

Section 101. Purpose and findings.

The Council of the City of Chaska finds that substantial scientific evidence exists that the use of tobacco-related products causes cancer, heart disease and various other medical disorders. It is further the finding of the City Council that the present legislative scheme of prohibiting sales of tobacco-related products to persons under eighteen (18) years of age has proven ineffective in preventing such persons from using tobacco-related products. The City Council has concluded that minors have ready access to self-service merchandising, including vending machines, which sell tobacco-related products and that the prohibition of the sale or dispensing of tobacco-related products through self-service merchandising, including vending machines, will thereby promote the health, safety, and welfare of the residents of the City, particularly those residents under eighteen (18) years of age. The City Council has further concluded that the prohibition of the sale of tobacco-related products by persons under eighteen (18) years of age will promote the health, safety, and welfare of the residents of the City .

Section 102. Definitions.

When used in this Section, the following terms have the following meanings:

Movable place of business: Means a business whose physical location is not permanent or is capable of being moved or changed.

Self-service merchandising: Shall mean a method of displaying tobacco-related products so that they are accessible to the public without the intervention of an employee.

Single-pull alarm dispensing system: Shall mean a self-service merchandising system of display racks equipped with clear shields that allow the removal by an adult customer of a single carton of cigarettes and an audible alarm or chime which is activated each time a carton of cigarettes is removed from a display rack of the self-service merchandising system.

Tobacco-related products: Shall mean cigarettes, cigars, cheroots, stogies, perique, granulated, plug-cut, crimp-cut, ready, rubbed and other smoking tobacco; snuff, snuff flowers, cavendish, plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse, scripts, clippings, cuttings, and sweepings of tobacco prepared in such a manner as to be suitable for chewing, sniffing or smoking in a pipe, rolling paper or other tobacco-related devices, and butane lighters and fluids.

Vending machine: Means any mechanical, electric or electronic, self-service device which, upon inserting money, tokens or any other form of payment, dispenses tobacco products and including vending machines equipped with manual, electric or electronic locking devices.

Section 103. License required.

(a) No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco-related product at any place in the City without first obtaining a license therefor from the City. No license shall be issued for the sale of tobacco-related products at a movable place of business.

(b) Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

Section 104. License fees.

All license fees provided for in Chapter 12, Article III, Division 2, for the sale of tobacco-related products shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by Council resolution. A copy of the resolution shall be kept on file in the office of the City Clerk-Treasurer and open to inspection during regular business hours. The annual license shall be effective for one (1) year from the date of approval and such license shall be renewed annually on the anniversary date of such approval.

Section 105. Unlawful use and furnishing tobacco.

(a) No person shall sell, offer for sale, give away, furnish, or deliver any tobacco-related product to any person under eighteen (18) years of age.

(b) No person shall sell or dispense any tobacco-related product through the use of vending machines unless minors are at all times prohibited from entering the licensed establishment.

(c) No person shall sell or dispense any tobacco-related product through self-service merchandising except for establishments where minors are prohibited from entering the licensed establishment and that derive at least 90 percent (90%) of their revenue from the sale of tobacco and tobacco products. (Ord. No.630, Sec. 1, 10/20/97)

(d) No person under eighteen (18) years of age shall sell tobacco-related products unless that person has received training regarding the state and local laws pertaining to the sale of tobacco-related products and procedures on requesting identification and verification of ages of persons attempting to purchase tobacco products. This provision may be complied with by the Licensee maintaining on file a signed statement that said underage seller acknowledges that he or she has read and understands information relating to the sale of tobacco-related products. Said information is available from the Chaska Police Department.

(e) No person under eighteen (18) years of age shall use, purchase, attempt to purchase, or possess tobacco-related products.

Section 106. Suspension; revocation of license.

The City Council shall suspend a license issued under this article for a period prescribed in Section 107, for a violation of any provision of this article. No suspension or revocation shall

take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, Minnesota State Statute Sections 14.57 to 14.69, as maybe determined by the Council in action calling the hearing. Such hearing shall be called by he Council upon written notice to the licensee served in person or by certified mail not less than fifteen (15) nor more than thirty (30) days prior to the hearing date, stating the time, place and purpose thereof.

(a) Responsibility for agents and employees. Every act or omission constituting a violation of any of the provisions of this article by an officer, director, manager or employee of any licensee shall be deemed and held to be the act or omission of that person and the licensee. Both the person committing the violation and the licensee shall be subject to the administrative penalties as set forth in this Ordinance and punishable in the same manner as if the licensee personally committed the act or omission.

(b) Administrative offense defined. Administrative offense procedures established pursuant to this Ordinance are intended to provide the public and the City with an informal, cost effective, and expeditious alternative to the traditional criminal charges for violations of this Ordinance. This provision is intended to be voluntary on the part of those who have been charged with these administrative offenses. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the City may bring criminal charges in accordance with law. Likewise, the City, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

(c) Notice. Any officer or personnel of the Chaska Police Department or the Community Service Officer, shall, upon determining that there has been a violation, notify the violator. Said notice shall set forth the nature, date and time of violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

(d) Payment. Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter, The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(e) Hearing. Any person contesting an administrative offense pursuant to this Section may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

(f) Hearing Officer. A City employee designated in writing by the City Administrator shall be the hearing officer. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this Ordinance.

(g) Failure to Pay. In the event a party charged with an administrative offense fails to pay the penalty, a criminal charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge maybe brought by the City for the same violation.

(h) Disposition of penalties. All penalties collected pursuant to this Ordinance shall be paid to the Finance Department and may be deposited in the City's general fund.

(i) Any person who shall violate any provision of this Ordinance, unless otherwise specified as a petty misdemeanor, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than seven hundred dollars (\$700) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

Section 107. Administrative penalties.

(a) Except for violation of Section 105(d), the penalties shall be as follows:

1st Offense in a 24 month period. \$75.00 fine
2nd Offense in a 24 month period. \$200.00 fine
3rd Offense in a 24 month period. \$250.00 fine
4th Offense in a 24 month period. Six month revocation
Clerk *\$50.00 fine*

(b) For violation of Section 105(d), the penalty shall be as follows:

Each Offense. \$25.00 fine

(Ord. No.575, Article VII, Secs. 101-107,6/19/95; Ord. No.630, Sec. 2, 10/20/97)

Sections 108 through 115. Reserved.

ARTICLE VIII. GRAFFITI REMOVAL

Section 116. Purpose and Intent.

The purpose of this Ordinance is to establish a process to remove graffiti within the City. The city of Chaska finds that graffiti on buildings, structures, and natural features within the City is a public nuisance adversely affecting the public's health, safety, morals, and general welfare. The City of Chaska finds that graffiti is related to criminal gangs and other criminal activity and that the continued existence of such graffiti by itself contributes to criminal activity. The City of Chaska finds that some property owners fail to clean up the graffiti from their buildings, structures, or natural features even after knowing the existence of the graffiti. The purpose of this Ordinance is to allow the City, after reasonable notice, to cleanup graffiti and charge the property owner for the costs of such cleanup. Graffiti is a public nuisance and it is in the best interest of protecting the public's health, safety, morals, and general welfare to have it removed.

Section 117. Definition.

Graffiti means inscriptions, drawings, paintings, or other visual markings that deface buildings, structures, fixtures, equipment, or natural features, either public or private.

Section 118. Graffiti Prohibited.

It is unlawful for any person to apply graffiti to any public or privately owned structure, real property, fixture, equipment, or personal property within the City. Any parent or guardian shall also be jointly and severally liable for payment of civil damages resulting from the misconduct of any minor said parent or guardian is responsible to the care or custody of.

Section 119. Notice.

If the City of Chaska and/or its agent determines that graffiti exists, the Chaska Police Department shall mail notice and copy of the Ordinance to the owner and/or occupant.

Section 120. Penalty.

Failure to remove graffiti, by the property owner and/or occupant, shall be considered a violation of Section 8, Chapter 1 of the Chaska City Code of Ordinances and shall be subject to the penalty provision of Section 8, Chapter 1 of the Chaska City Code of Ordinances.

Section 121. Unlawful Possession of Spray Paint Container

Absent express permission by the owner or other person having control thereof, it shall be unlawful for any person to possess in or upon any public or private building, facility, or property any nonwater-soluble spray or liquid paint container, or any other marking device containing a nonwater-soluble fluid, which has a point, brush or other application surface one-half inch or greater, with intent to use these paints, fluids, containers, or devices to deface such building, facility, or property. (Ord. No. 752 dated 07-21-03)

Sections 122. through 130. Reserved

(Ordinance 709, adopted 06-18-01.)