

**CHAPTER 3 - PUBLIC HEALTH AND SAFETY**

- 3-1 NUISANCE CONTROL AND PROPERTY MAINTENANCE
- 3-2 BURNING RESTRICTIONS
- 3-3 EMERGENCY OPERATION
- 3-4 GENERAL OFFENSES
- 3-5 ANIMAL CONTROL
- 3-6 DOGS
- 3-7 CITY PARKS

**ARTICLE 3-1 NUISANCE CONTROL AND PROPERTY MAINTENANCE**

- 3-1-1 Purpose And Scope
- 3-1-2 Definitions
- 3-1-3 Administration and Enforcement
- 3-1-4 Public Nuisances
- 3-1-5 Premises Housing Animals
- 3-1-6 Litter Control
- 3-1-7 Maintenance of Land, Buildings and Structures
- 3-1-8 Violations
- 3-1-9 Correction of Violations
- 3-1-10 Joint and Several Liability
- 3-1-11 Administrative Abatement
- 3-1-12 Emergency Abatement Provision

3-1-1 Purpose and Scope

- A. Health and Welfare. The purpose of this Chapter is to promote the health, safety, economic, aesthetic and general welfare of the citizens of the City, and to protect neighborhoods against nuisances, blight and deterioration by establishing requirements for maintenance of all buildings and structures of whatever kind, and by establishing requirements for the maintenance of all land, whether improved or unimproved.
- B. Applicability. This Chapter shall apply to all buildings, structures and lands within the City without regard to the use thereof or the date of construction or alteration of any building or structure.

3-1-2 Definitions

In this Chapter:

ABANDONED OR JUNKED VEHICLE: Any vehicle without the current required license plate and

tag; or that is inoperable, stripped, scrapped, junked, discarded, dismantled or wrecked.

**ABANDONED BUILDING:** A vacant building, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property.

**AUTHORIZED RECEPTACLE:** A garbage or debris storage and collection receptacle required or authorized by the City.

**BLIGHT OR BLIGHTED:** Unsightly conditions, including, but not limited to, the accumulation of debris or garbage; any building structure characterized by holes, rot, collapse, crumbling or rusting; the presence of any household appliance which is located out of doors at a place which is within public view; and any other similar condition of disrepair, dilapidation or deterioration.

**BUILDING:** Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels.

**CITY MANAGER:** The City Manager, his authorized representative or any peace officer.

**DEBRIS:** All combustible and noncombustible solid waste, whether or not subject to decay, including, but not limited to, abandoned or junked vehicle or part thereof, industrial waste, junk, furniture, stove, sink, household fixture, refrigerator, vehicle part, mattress, broken asphalt, broken tile, broken brick, broken concrete, rubbish, dead animal, cigarette, trash, broken glass, refuse, ash, abandoned, broken or neglected equipment, a scattering or deposit of anything of little or no apparent economic value, or other material which creates an unsightly and unsafe condition.

**DETERIORATED OR DETERIORATION:** An excessive lowering in the quality of the condition or appearance of a building or structure or any part thereof, characterized by the process of decay or degeneration, holes, rot, collapse, crumbling, rusting, vermin infestation, exposed electric wiring, leaking or inoperable plumbing, unsafe conditions or crumbling asphalt or concrete; or by being used by one or more persons for criminal activity; or by any other evidence of physical decay, excessive neglect or lack of maintenance.

**EXTERIOR SURFACE:** The outside surfaces of a building or structure and any attachments thereto, including, but not limited to, walls, roofs, doors, windows, gutters, porches, patios and chimneys.

**GARBAGE:** Any spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition, which is not handled or disposed of properly.

**GRAFFITI:** Any drawing or inscription that degrades the appearance of property which is carved, drawn or painted on a surface in a place which can be seen by the public.

INFESTATION: The apparent presence of insects, rodents or other pests.

LAND: All land in the City, whether improved or unimproved, including, but not limited to vacant lots.

MAJOR REPAIR: The repair of damage to the body of any vehicle, or the removal from any vehicle of a major portion thereof, including, but not limited to, the differential, transmission, head, engine block, door, fender, body panel, hood or other similar part.

OWNER: A person, who owns, leases, rents, occupies controls or has the right to control any land, building or structure.

PERSON: A human being, enterprise, corporation, association, partnership, firm, society or other similar group or organization.

PUBLIC PLACE: Any street, sidewalk, alley or other public way and any public park, square, space, ground or building.

STREET: The entire width between the boundary lines of every way, including, but not limited to, every road, alley, highway, right of way and easement, any part of which is open to use for pedestrian or vehicular traffic.

STRUCTURE: Anything constructed or erected which requires location on the ground, including, but not limited to, a driveway, sidewalk, walkway, exterior step, railing, fence or wall.

VACANT BUILDING: Any unoccupied real property which is empty or remains empty and is not continuously maintained for twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to said property; or any building which exhibits dilapidated walls, roof or doors which will fail to prevent the entry of a trespasser.

VEGETATION: Any plant growth, whether living or dead, including, but not limited to, grass, weeds, bushes, cactus and trees.

VEHICLE: Every device in, upon or by which any person or property may be transported or drawn upon a street, upon water or stationary rails or tracks.

### 3-1-3 Administration and Enforcement

- A. City Manager. The City Manager shall implement, administer and enforce this Chapter, and may establish rules, regulations and procedures to implement, administer and enforce this Chapter.

B. Entry onto Private Property:  
At any time, the City Manager may:

1. Inspect, from outside the boundaries of a property, every portion of the property which is within plain view;
2. Inspect any portion of a property with the consent of a person who owns the property;
3. Enter the exterior portion of a property, and/or make known his presence at the entrance to a building or structure, for the purpose of locating or obtaining information or permission from, the person in control of the property;
4. Enter a property in the manner provided in a search warrant or other court order;
5. Enter a property in any other lawful manner.

3-1-4 Public Nuisances

A. Defined. Public nuisance means any of the following acts, omissions, conditions or things existing at any place in the City:

1. Privy, Vault, Pit: A privy, vault, cesspool, sump, pit or like place which is not securely protected from insects or rodents, or which is foul or malodorous;
2. Manure: Animal manure in any quantity which is not securely protected from insects, rodents and the elements, except for animal manure used on any farm, garden or ranch in such a manner and for such purposes as are compatible with reasonable and customary methods of good husbandry;
3. Junk Yards: Except where permitted by the Zoning Ordinance, using or maintaining any place for a junk yard or dumping ground; or for the wrecking, disassembling, major repair or rebuilding of any vehicle, farm equipment or machinery of any kind; or for the storing or leaving of any abandoned or junked vehicle, including parts thereof. Notwithstanding the foregoing, major repair or rebuilding of one vehicle at a time is allowed; provided, that the work is performed in a place which is not visible from the boundaries of the parcel of land. When an activity which would otherwise be prohibited by this subsection is nevertheless lawfully conducted on a parcel of property in accordance with the Zoning

Ordinance, at all times every person who owns the parcel must conduct the activity, and must keep all of the items described in this subsection, in a place which is not visible from outside the boundaries of the parcel on which the activity is lawfully conducted;

4. **Offensive Substances:** Any quantity of putrid, decayed, rotten, unsound or unwholesome bone, meat, hide, skin, dead animal, fish, fowl or animal matter, butcher's trimmings, waste vegetation, garbage, urine, feces, sewage or other similarly offensive substance; except for the temporary retention of such items in an authorized receptacle in a manner authorized by law;
5. **Excavations:** Any unmarked or unprotected excavation, pit, well or hole which poses a substantial risk of injury to any person:
  - a. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the City without providing a sufficient light at night and a temporary fence or suitable obstruction around such excavation to protect the public during the day.
  - b. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet (2') in depth on any unenclosed lot, without substantial curbing, covering or protection.
6. **Unlocked Containers:** Leaving or permitting to remain out of doors at any place, or within any unoccupied or abandoned building or structure, any icebox, refrigerator or other container which has an attached door or lid designed or intended to be airtight and a locking device which may not be released from the inside;
7. **Obstructions:** Creating or maintaining any condition that obstructs or renders dangerous the use or passage of any public property such as parks, streams, watercourses, sidewalks, squares, alleys, streets or easements, or which interferes with, obstructs or blocks the vision of any motorist;
8. **Buildings; Structures:** Any building or structure which is partially destroyed, structurally unsound, left in a state of partial construction or abandoned;
9. **Fire Conditions:** Any condition which substantially increases the risk of fire;

- 10. Infestations: Any infestation or any condition which poses a substantial risk of attracting or concealing insects, rodents, vermin, wild animals, scorpions or poisonous snakes, or which increases the likelihood of infestation;
- 11. Health And Safety Risks: Any condition which poses a substantial risk to the health or safety of any person or of the public, including, but not limited to, an unsafe, unsanitary or structurally unsound condition;
- 12. Conditions Multiplying Flies: No owner, tenant or occupant of any premises within the City shall suffer, permit or have upon such premises any cesspool, vault, pit or like place; or animal manure, garbage, trash, litter, rags or any other thing in which flies may breed or multiply, unless the same shall be protected as to prevent the attraction, breeding and multiplying of flies;
- 13. Dangerous Structures: It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- 14. Discharge of Contaminated Water: It is unlawful for any person to allow any contaminated or hazardous water to flow onto another person's property in the City. It is unlawful for any person to discharge, pour, throw or allow to flow any offensive water upon any public or private property in the City.

- B. Prohibited. Every person who owns any property in the City shall keep and maintain the property free of every public nuisance. No person shall cause, maintain, allow, suffer or permit the existence of a public nuisance anywhere in the City.

3-1-5 Premises Housing Animals

Where permitted by zoning, the premises upon which livestock including, but not limited to fowl, rodents, cattle, horses, mules, sheep or goats are kept shall always be sanitary and subject to inspection and regulation by the City.

3-1-6 Litter Control

- A. Littering Unlawful. No person shall discard, deposit or bury any garbage or debris on any property within the City.
- B. Property of Owner. Every person who owns property within the City shall at all

times keep and maintain the property free of garbage and debris, except garbage or debris contained within an authorized receptacle.

- C. Area Adjacent. Every person who owns any property in the City shall at all times keep and maintain every sidewalk, landscape area, street, alley, easement, right of way or other similar area adjacent to the property free of garbage and debris, except garbage or debris contained within an authorized receptacle.
- D. Transporting. No person shall transport any garbage or debris within the City unless the vehicle used is loaded in a manner which prevents material contained within or loaded upon the vehicle, or any part thereof, from blowing, falling or being deposited upon any street, alley or other public place.

### 3-1-7 Maintenance of Land, Buildings and Structures

Every person who owns any land, building or structure in the City shall at all times keep and maintain the land, building or structure in a manner which is free of:

- A. Deterioration, blight, debris and garbage;
  - B. Any noxious or toxic weed, any uncultivated or overgrown plant, any dry or dead vegetation;
  - C. Graffiti;
  - D. Excessive noise and light pollution which exceeds acceptable standards as set forth in Section 6 of this Code.
  - E. Every condition which poses a risk to the health and safety of the public or of any person.
- B. Building and Structure; Exteriors.
- 1. Exterior Surfaces. All exposed exterior surfaces, windows and doors shall be maintained so as to be free of deterioration that is a threat to health and safety, impervious to moisture and weather elements, and shall not otherwise present a deteriorated or blighted appearance. Windows, doors, locks on doors, and hinges must be present and installed properly. These items must be free from deterioration or blighting conditions. Examples of such deterioration and blight may include the following:
    - A. Improperly anchored canopies, metal awnings, stairways, exhaust ducts, and overhead extensions;

- B. Exterior windows and doors that are not fitted securely in their frames and are not substantially weather tight or that have inoperable locks;
  - C. Paint that is deteriorated, indicated by peeling, flaking, cracking, blistering or mildew, resulting in exposed, bare unprotected surfaces;
  - D. Window screening not maintained in good condition;
  - E. Boarded window or door openings on an occupied structure;
  - F. Boarded window or door openings on an unoccupied structure for ninety (90) consecutive days.
2. Fences, screen walls, and retaining walls. All fences, screen walls, and retaining walls on the premises shall be safe, structurally sound and maintained so that they do not constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair are inclusive of, but not limited to leaning fences, fences that are missing slats or blocks, graffiti, peeling paint, deterioration of paint or materials, rotting or damage.
  3. Signs, monuments, and other accessory improvements. All signs, monuments, and other accessory improvements on the premises shall be safe, structurally sound and maintained so that they do not constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair are inclusive of, but not limited to leaning signs, graffiti, peeling paint, deterioration of paint or materials, rotting or damage.
  4. Exterior insect, rodent and animal control. All premises shall be kept free from insect and rodent infestation and other noxious pests. This provision shall not require action to disturb the natural or cultivated activity of bees, rabbits, or other insects and animals where such activity is not a danger or nuisance to any resident or residents of the area, and where other applicable legal requirements are met.
  5. Drainage. All premises shall be maintained so as to prevent the accumulation of water when such water causes a hazardous or unhealthy condition, becomes a breeding area for insects, causes soil erosion, or which causes damage to neighboring property.
  6. Coolers and their apparatus. Coolers and their mounting apparatus shall be maintained in a condition free from excessive accumulation of scale, rust, corrosion or mineral deposits. Cooler stands or mounts



shall be structurally sound. Unused, deteriorating and unattached evaporative coolers are to be removed from the structure.

7. Exterior; weather tight, watertight and vermin proof. Every foundation, roof and exterior wall shall be reasonably weather tight, watertight and vermin proof and shall be kept in sound condition.
8. Exterior; deteriorated. All exposed exterior surfaces shall be maintained so as to be impervious to moisture and weather elements and every housing unit shall be free of broken, rotted, split or buckled exterior wall coverings or roof coverings. All exposed exterior surfaces shall not otherwise present a deteriorated appearance and will meet the specific requirements that follow:
  - A. All exterior wood surfaces shall be protected from the elements and from deterioration by paint or other protective treatment; except such wood surfaces composed of wood that is naturally resistant to decay;
  - B. All exterior painted surfaces shall be painted with paint that is lead free and shall be free of loose, cracked, scaling, chipping or peeling paint in such amounts as to present a deteriorated appearance;
  - C. Roof coverings shall be watertight and weather tight and shall be free of broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated appearance.
9. Landscaping standards generally.
  - A. Landscape materials: all landscape materials, including but not limited to grasses, groundcovers, trees, shrubs, ornamental plants, architectural pools, ponds, basins and fountains and all retention basins shall be maintained in substantial conformance to the conditions and requirements in existence at the time of their approval/acceptance by city inspectors.
  - B. Airborne pollens: it is unlawful to offer to sell, sell or plant any male mulberry tree (*morus alba*) or olive tree (*olea europea*) in the city, unless it is one (1) of the non-pollinating varieties of such trees. The city shall maintain a current list of non-pollinating varieties that shall be available for public review and shall be based on industry standard for nonpollinating varieties, applicable horticultural and scientific research and data, review and evaluation by qualified experts, and other appropriate information.

10. Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background and shall not be obstructed by trees, shrubs or anything that would tend to hide or obscure the numbers.

C. Exterior premises and vacant land.

1. General.

A. All land including exterior premises and vacant land, whether improved or unimproved, shall be maintained free from any accumulation of garbage, debris, rubble, hazardous waste, litter, rubbish, refuse, waste material, or blight, which includes, but is not limited to, graffiti on walls, fences, mail boxes, etc., bottles, papers, glass, cans, organic or inorganic material, the exterior visible use or display of tarps, plastic sheeting, or other similar materials as flexible or inflexible screening, fencing or wall covering upon a residential lot, an accumulation of abandoned or junked vehicles, discarded, broken, or inoperable appliances, discarded or broken furniture, broken glass, discarded, broken or inoperable equipment, discarded or broken bicycles, bicycle or appliance parts, piles of mixed materials, dry vegetation, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing straw, packing hay or other packing material, lumber not neatly piled, lumber stored in front yards, scrap iron, tin and other metal not neatly piled or anything whatsoever in which insects, rodents, snakes or other harmful pests may live, breed or multiply or which may otherwise create a fire or safety hazard.

B. It is unlawful for any business, corporation, firm or person to fail to provide approved litter or trash receptacles for the containment of litter and trash generated within or upon their premises or to allow litter or trash from approved receptacles to become windblown and be disbursed about the area.

C. It is unlawful for any owner, agent, or contractor in charge of any construction or demolition site to cause, maintain or permit the accumulation of any litter or debris on the site before, during, or after completion of the project except in a designated contained area, or to allow any such litter or debris to become windblown and carried or deposited upon any alley, street, public place or adjacent private property.

2. Streets, alleys and sidewalks.

- A. Portion of a street abutting the boundaries of a parcel of land, which street has not been opened for public use, shall be maintained by those persons who dedicated the street or their successors in interest, including lessees and other persons in control of the land abutting the street; provided that, if the abutting land on either side of such street is owned by different persons and each person has an obligation to maintain the street hereunder, then the owner, lessee or other person in control of the land shall only be required to maintain one-half (1/2) of the width of the street abutting their land.
3. Maintenance of swimming and architectural pools. All swimming and architectural pools, ponds and spas shall be properly maintained so as not to create a safety hazard or harbor insect infestation, or create a visibly deteriorated or blighted appearance. Water shall not be allowed to stagnate, or to become stale or foul through lack of circulation. Fencing or other barriers required for swimming pool and spa enclosures shall be maintained in good condition. All pools shall also be free from visible deterioration or blighted appearance. Architectural pools that contain fish must be maintained to provide for the health of the fish. Dead fish must be removed immediately.
4. Weeds, bushes, trees and other vegetation.
  - A. All exterior property areas shall be kept free from dry vegetation, tumbleweeds, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations, or dry vegetation which may likely become a fire hazard or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.
  - B. The owner shall remove, restore or repair any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated appearance; including but not limited to uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof, or stumps.
  - C. The owner must trim all overhanging vegetation to provide a thirteen (13) foot six (6) inch minimum height clearance in all streets and alleys, a seven (7) foot minimum height clearance on all sidewalks, and shall not allow vegetation to protrude more

than one (1) foot six (6) inches into the alleyway.

5. Dumping. Vacant lots or lands, which have been subject to dumping on more than one (1) occasion, shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands may include the following: permanent fencing; ditch and berm; placing four-foot high posts at four-foot intervals; and other equally effective methods. Signs stating “no dumping” shall be erected in accordance with applicable laws on vacant lots or lands which have been subject to dumping on more than one (1) occasion.
6. Excavations. Excavations and other like or similar conditions must be filled with clean fill. Excavations shall be maintained in a secure manner so as to prevent a hazard to public health and safety. Any mound made of dirt or debris over five (5) feet in height must be secured in a manner as to prevent a hazard to public health and safety. An excavation or mound is considered secure when:
  - A. It is protected by a permanent and complete five-foot minimum height enclosure that surrounds the excavation, mound or property.
  - B. A well, pit, abandoned swimming pool, or similar excavation is completely and permanently covered, fenced securely or protected in an equivalent manner.
7. Vacant lots and parcels.
  - A. The owners of vacant parcels five thousand (5,000) square feet or larger which have been disturbed by motor vehicles shall either:
    1. Erect signs, fencing, shrubs, trees or other barriers to prevent motor vehicle trespass or parking; or
    2. Apply surface gravel or chemical/organic stabilizers to all disturbed surface areas.
  - B. The owners of vacant lots or parcels where more than one-half (1/2) acre of the surface has been disturbed shall either:
    1. Establish ground cover;
    2. Apply a dust suppressant;

3. Restore to a natural state; or
  4. Apply gravel to the disturbed area.
- C. The owners of properties on which weed abatement disturbs more than one-half (1/2) acre of vacant land shall:
1. Apply a dust suppressant immediately prior to or during such weed abatement;
  2. Take reasonable precautions to prevent or eliminate cut plant material from being tracked out onto paved surfaces or onto access points adjoining paved surfaces; and
  3. Apply a dust suppressant, gravel, use compaction or take other dust control measures immediately following weed abatement.
- D. Paragraphs B and C above do not apply to vacant lots located on an industrial facility or construction or earth-moving activity on-sites that have an approved permit issued by the city or by Navajo County.
- E. Property which is part of a subdivision or planned area development (pad) shall be maintained in conformance with the exhibits, conditions and stipulations approved and imposed by the city council at the time the approval for rezoning or development was granted.
8. Leaf blowers and landscape debris. No person shall cause or permit landscape debris or other material to be blown or placed in or on any highway, street, alley, public place or public right-of-way. No person shall operate a leaf blower over surfaces that have not been stabilized.
- D. Vacant or abandoned buildings.
1. Sign posting.
    - A. The owner of record of a vacant or abandoned building is required to post a sign at the front of the building, in a conspicuous location protected from the weather, that provides the current name, address, and phone number of the owner of record, if the owner resides locally, or the current name, address, and phone number for a local authorized agent.

B. If a notice of default or foreclosure has been recorded for the real property on which the vacant or abandoned building is constructed, the lender's name, address, and telephone number must also be provided.

C. The sign shall be no smaller than 8 ½ inches by 11 inches.

2. Security. The owner of a vacant or abandoned building is responsible for securing that building and its premises against unauthorized entry in accordance with the following provisions:

A. For the first ninety (90) consecutive days during which the building remains vacant or abandoned, the doors, windows, and other openings of the building may be secured with plywood panels.

B. After the expiration of ninety (90) consecutive days, the owner shall be responsible for restoring the building to an occupied appearance, with all doors, windows, and other openings of the building in good repair. The owner shall also be responsible for installing a security fence around the building and a commercially-serviced, 24-hour burglar alarm system to prevent unauthorized entry into the building or premises.

3-1-8 Violations

A. Civil:

1. Every person who owns any land, building or structure in the City is civilly responsible for any violation of this Chapter which exists with respect to such land, building or structure.

2. Upon finding a person responsible for a civil violation, the court shall impose upon such person a civil sanction of not less than two hundred fifty dollars (\$250.00) and not more than two thousand five hundred dollars (\$2500.00). The court shall not suspend the imposition of the minimum sanction unless the court finds by a preponderance of the evidence that the person has corrected every violation for which he was found responsible, and that the person is in compliance with this Chapter. In that event, the court may, in its discretion, suspend all but one hundred fifty dollars (\$150.00) of the sanction upon such conditions as the court deems just.

B. Criminal.

1. Every person who owns any land, building or structure in the City, and who intentionally, knowingly, willfully or recklessly causes, allows, suffers or permits a violation of this Chapter to exist with respect to such land, building or structure commits a Class One misdemeanor.
  2. Upon conviction, the court, at a minimum, shall sentence the defendant to a fine of not less than two hundred fifty dollars (\$250.00) and to probation for not less than one year. The court shall not suspend the imposition of the minimum fine or probation unless the court finds by a preponderance of the evidence that the defendant has corrected every violation for which the defendant was found guilty, and that the defendant is in compliance with this Chapter. In that event the court may, in its discretion, suspend all but one hundred fifty dollars (\$150.00) of the fine on the condition that the defendant does not commit another criminal violation of this Chapter for three (3) years following the date of sentencing.
- C. Actions Not Exclusive. The City's election to prosecute a civil or criminal action to enforce the provisions of this Chapter does not limit or restrict the City's ability to bring against the defendant any other action authorized by law, including, but not limited to, an administrative abatement proceeding.

D. Violations-Separate violations on daily basis

Each violation of this chapter shall constitute a separate violation for each day that the owner permits the violation to occur, and may be prosecuted and punishable as an individual and separate offense for each day that the owner permits the violation to occur.

3-1-9 Corrections of Violations

- A. Authority. In addition to any civil sanction or criminal penalty, the court may in its discretion order the defendant to correct the violation by a specified date, and may order the City to enter the property and correct the violation if the defendant fails to comply with the court's correction order. The court may require the defendant to correct the violation as a condition of suspending a portion of the civil sanction or criminal penalty.
- B. Recovery of Costs Incurred By City
1. For a civil violation of this Chapter, if the City corrects a violation pursuant to this Chapter, the City may petition the court to recover the costs, expenses and attorney fees which the City incurred in correcting the violation and in bringing the petition for recovery. If the court finds

by a preponderance of the evidence that the City is entitled to recover, the court may order the defendant to pay to the City the amount of the costs, expenses and attorney fees reasonably incurred by the City, and may enter judgment in favor of the City and against the defendant in that amount. The court may make payment of the judgment a condition of suspending a portion of the civil sanction.

2. For a criminal violation of this Chapter, if the City corrects a violation pursuant to this Chapter, the City may petition the court to order the defendant to pay restitution to the City in the amount of the costs, expenses and attorney fees which the City incurred in correcting the violation and in bringing the petition for restitution. The court may, in its discretion, order the defendant to pay such restitution to the City. The court may make the payment of restitution a condition of suspending a portion of the criminal penalty.

### 3-1-10 Joint and Several Liability

- A. If more than one person owns a particular parcel of property, then all such persons are jointly and severally liable for every civil violation of this Chapter existing with respect to that parcel.
- B. In a criminal prosecution for violations of this Chapter, it shall not be a defense that another person is also guilty of a criminal or civil violation of this Chapter.

### 3-1-11 Administrative Abatement

- A. Authority. If there is a violation of any provision of this Chapter, the City may proceed with an administrative abatement proceeding as set forth in this Section. Nothing in this Chapter shall require the City to proceed under this Section.
- B. Notice. Notice of a violation under this Chapter shall be served either personally or mailed to the owner and to the occupant or lessee, if any, at their last-known addresses by certified mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him by certified mail at his last known address. The notice shall contain a statement that unless the person owning or controlling such property complies therewith within thirty (30) days from the date such written notice is received, that the City will, at the expense of the person owning or controlling said property, perform or cause to be performed the necessary work and that such person may appeal in writing to the City Council within thirty (30) days from the date that the written notice is received by him and prior to the date of compliance. The notice shall include a legal description of the



property and the approximate cost to the City if the person fails to comply with the notice.

- C. Appeal of Requirement. Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the City Council or the three (3) member panel appointed by the City Council from the demand of the City. A three (3) member body appointed by the council shall hear and determine the same and the decision of said body shall be final. Said body may either affirm or reverse the decision of the City or modify the scope of work as required in the notice. Said panel shall serve for a two (2) year term to hear all appeals under this subsection. If a member of said body is unable or unwilling to serve, then the City Council shall appoint a new member to fill the vacancy on the panel.
- D. Refusal To Comply; Cost Assessment. If a person to whom notice, as aforesaid has been given, or on or before the date of compliance on the notice, or within such further time as may have been granted on appeal fails, neglects or refuses to remove from such property any or all nuisances, the City Manager is authorized and directed to either cause same to be removed or disposed of at the expense of the owner and person controlling such property. Upon completion of the work, the City shall prepare a verified statement of account of the actual costs of such removal or abatement, the additional inspection costs, labor costs, other incidental connected costs and associated legal costs, the date the work was completed; and the street address and/or the legal description of the property on which said work was done. The City shall mail a duplicate copy of such verified statement to the person owning and controlling such property.
- E. Appeal of Assessment. The owner and/or person controlling such property shall have fifteen (15) days from the date of mailing to appeal in writing to the City Council or the three (3) member panel appointed by the City Council from the amount of assessment as contained in the verified statement. If an appeal is not filed with the City Council within such fifteen (15) day period, then the amount of the assessment as determined by the City shall become final and binding. If an appeal is taken, the body appointed by the council, shall hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of said body shall be final and binding on all persons.
- F. Assessment Recorded. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the City Council or a body appointed by the council, has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the office of the County Recorder and from the date of its recording, shall be a lien on said lot or tract of land until paid. Such assessments shall be superior to all other liens, obligations,

mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy an assessment obtained under the provisions of this Section shall be made upon judgment of foreclosure and order of sale. The City shall have the right to bring an action to enforce the assessment in the Superior Court of the county in which the property is located at any time after the recording of the assessment, but failure to enforce the assessment by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.

G. Installment Plans. Assessments that are imposed under this Chapter run against the property until paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars (\$500.00) shall be paid within six (6) months after the assessment is recorded.
2. Assessment of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000.00) shall be paid within one (1) year after the assessment is recorded.
3. Assessments of one thousand dollars (\$1,000.00) or more but less than five thousand dollars (\$5,000.00) shall be paid within eighteen (18) months after the assessment is recorded.
4. Assessments of five thousand dollars (\$5,000.00) or more but less than ten thousand dollars (\$10,000.00) shall be paid within three (3) years after the assessment is recorded.
5. Assessments of ten thousand dollars (\$10,000.00) or more shall be paid within five (5) years after the assessment is recorded.

H. Past Due Interest. An assessment that is past due accrues interest at the rate of 10% per annum, or other legal rate prescribed by law.

I. Prior Assessments. A prior assessment for the purposes provided in this Chapter shall not be a bar to a subsequent assessment or assessments for these purposes, and any number of assessments on the same lot or tract of land may be enforced in the same action.

3-1-12 Emergency Abatement Provision

A. When an existing violation of this article poses a substantial and immediate threat of serious harm to the health or safety of any person, then the City may

immediately enter the property and take the minimum action necessary to relieve the threat of serious harm.

- B. If it is reasonably practicable to do so under the circumstances prior to entering the property, the City shall obtain:
  - 1. The involvement of the Navajo County Health Department or other applicable entity if such department or entity has authority to act in the matter; and
  - 2. The consent of the person who owns, leases, rents, occupies, controls or has the right to control the property; or
  - 3. A search warrant from a Justice Court or an order from the City Magistrate Court authorizing the City to enter the property and relieve the threat of harm. The Magistrate Court shall issue such an order only upon a showing that probable cause exists to believe that a violation of this article poses a substantial and immediate threat of serious harm to the health or safety of any person.
- C. As soon as is reasonably practicable under the circumstances, the City shall serve a civil or criminal citation or summons and complaint on the person or persons responsible for the violation or the property owner.

**ARTICLE 3-2 BURNING RESTRICTIONS**

- 3-2-1 Permit Required
- 3-2-2 Location Restriction
- 3-2-3 Attendance of Open Fires
- 3-2-4 City May Prohibit
- 3-2-5 Kindling Fire on Land of Others

3-2-1 Permit Required  
 No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on or in any public street, alley, road, or other public ground without a permit. During construction or demolition of buildings or structures, no waste materials or rubbish shall be disposed of by burning on the premises or in the immediate vicinity without having obtained a permit. Council shall establish the procedures for obtaining a burning permit by resolution.

3-2-2 Location Restriction  
 No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be

kindled or maintained on any private land, except as provided for by State law and upon receipt of a City-issued burning permit, and unless the location is not less than fifty (50') feet from any structure and adequate provision is made to prevent fire from spreading to within fifty (50') feet of any structure, or the fire is contained in an approved waste burner located safely not less than fifteen (15') feet from any structure.

3-2-3 Attendance of Open Fires

Bonfires and rubbish fires shall be constantly attended by a competent adult person who is at least 18 years of age until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use.

3-2-4 City May Prohibit

The City Manager or designee may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

3-2-5 Kindling Fire on Land of Others

No person shall kindle a fire upon the land of another without permission of the owner thereof or his agent upon receipt of a City-issued burn permit.

**ARTICLE 3-3 EMERGENCY OPERATIONS**

The Emergency Operation plan of the City of Holbrook adopted and made a public record by Resolution No. 97-15 on October 14, 1997, is herein incorporated and adopted and shall be referenced to as Article 3-3 of the Holbrook City Code and is made a part hereof as if fully set forth in the Code. Three (3) copies of which are on file in the office of the City Clerk of the City of Holbrook, Arizona.

**ARTICLE 3-4 GENERAL OFFENSES**

- 3-4-1 Weapons
- 3-4-2 Spitting
- 3-4-3 Hazardous Water Conditions
- 3-4-4 Obstruction of Streets
- 3-4-5 Unlawful Urination
- 3-4-6 Curfew
- 3-4-7 Railroad Equipment
- 3-4-8 Operation of Vehicles
- 3-4-9 Obscene Language

3-4-1 Weapons

- A. Unlawful Discharge; Exceptions: It is unlawful for any person within the limits of the City to fire or discharge any firearm, BB gun, air gun, pellet gun, dart gun, slingshot, gas-operated gun or other similar gun, archery projectiles or instrument except:
  - 1. as allowed pursuant to the provisions of Title 13, Chapter 31, of the Arizona Revised Statutes.

3-4-2 Spitting

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the City or upon any public path, by-way or highway, or in or on any public ground or park in the City, or upon the floor or interior of any public building in the City.

3-4-3 Hazardous Water Conditions

- A. Unlawful to Permit: It is unlawful for any person to willfully or permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the City.
- B. Irrigation Water: It is unlawful for any person to willfully or permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the City through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him.

3-4-4 Obstruction of Streets

It is unlawful for any person to obstruct any public street or alley, sidewalk or park or other public grounds within the City by committing any act of, or doing anything which is injurious to the health, or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks, or other public use of property or with any business lawfully conducted by anyone, in or upon, or facing or fronting on any of such streets, alleys, sidewalks, parks or other public grounds in the City.

3-4-5 Unlawful Urination

It is unlawful to publicly urinate or defecate on any public or private property within the City.

3-4-6 Curfew

- A. It is unlawful for any juvenile under the age of sixteen (16) years to be, remain or loiter in, about or upon any place in the City away from the dwelling house or usual place of abode of the said juvenile, between the hours of 10:00 o'clock p.m. and 5:00 o'clock a.m. of the following day.
- B. It is unlawful for any juvenile sixteen (16) years of age or older and under the age of eighteen years to be, remain or loitering, about or upon any public place in the City away from the dwelling house or usual place of abode of said juvenile, between the hours of 12:00 o'clock midnight and 5:00 o'clock a.m. of the following day.
- C. It is unlawful for a parent, guardian or other person having the care, custody or supervision of a juvenile to permit such juvenile to be, remain or loiter in, about or upon any place in the City away from the dwelling house or usual place of abode of said juvenile in violation of Sections A and B.
- D. It is unlawful for any parent, guardian or other person having the care, custody or supervision of a juvenile to fail or refuse to take such juvenile into custody after demand is made pursuant to subsection G below.
- E. The curfew set forth above does not apply to any legally emancipated minor, whether the emancipation be through marriage, military service or other legally sufficient grounds; to any minor who is accompanied by his parent, guardian or other person having his legal care and custody; or to any minor, who might otherwise be in violation of the terms of this section, when any of the following applies:
  - 1. His presence is reasonably required in the pursuit of a lawful occupation, business or profession in which he is then engaged, with the permission of a parent, guardian or other person having his legal care and custody; or
  - 2. He is on an emergency errand, medical or otherwise; or
  - 3. He is going to or from or attending a place or function sponsored by or related to school, church, civic, or other non-profit organization. These functions shall include, but are not limited to, classes, services, meetings, dances, dramatic or musical performances, sporting events, or other social events sponsored by school, religious, civic, or other non-profit organizations, with the permission of his parent, guardian or other person having his legal care and custody. This exception shall apply for one (1) hour after the completion of said meeting or event, but in no case later than 1:00 a.m.

- F. It shall not constitute a defense to this section that any parent, guardian other adult having the care, custody or supervision of a juvenile did not have actual knowledge of the presence of such juvenile in, or about or upon any place in the City away from the dwelling house or usual abode of the juvenile, if said parent, guardian or other person having the care, custody or supervision of such juvenile, in exercise of reasonable care and diligence, should have known of the aforementioned unlawful act or acts of such juvenile.
- G. In addition to any other powers that he may have, any law enforcement officer who arrests a juvenile for violating any of the provisions of subsection A or B is also empowered to demand of said juvenile's parent, guardian or other person having his care, custody or supervision, that such parent, guardian or other person take custody of such juvenile. If the parent, guardian or other person fails to take custody of the juvenile, the law enforcement officer shall then be authorized to take the juvenile to the dwelling house or usual place of abode of the juvenile.
- H. Each violation of the provisions of subsections A, B, C and D above shall constitute a separate offense.
- I. Any violation of the terms of this section shall be a Class 1 Misdemeanor.

3-4-7 Railroad Equipment

All railroad trains, engines, cars and other equipment or vehicles moving on fixed rails within the City limits of the City of Holbrook shall be run and operated at a speed not to exceed that mandated by the Federal Railroad Safety Act, 49 USC Section 20106, and relevant regulations covering train speed pursuant to Title 49 of the Code of Federal Regulations.

3-4-8 Operation of Vehicles

No person upon roller skates or roller blades or scooters or riding any coaster, toy vehicle, skateboard or similar device shall be upon any roadway except when crossing. Such person shall be granted all of the rights and shall be subject to all the duties applicable to pedestrians when crossing any roadway.

3-4-9 Obscene Language

It is unlawful for a person, in the presence or hearing of any other person, or in a public place, to use vulgar, abusive or obscene language.

3-4-10 Public intoxication

it is unlawful for a person to be in a public place in a state of intoxication caused by the person's

use of alcohol or a controlled substance such that he or she is unable to exercise care for his or her own safety or the safety of others, or interferes with or obstructs or prevents the free use of a public place.

- A. Arrest for public intoxication; options available.
  - 1. If an individual is unmanageable or is causing damage to the individual or others, a police officer or peace officer making an arrest for public intoxication may take the individual into custody for criminal processing in the city lock-up or county jail.
  - 2. If an individual is manageable and not causing damage to the individual or others, a police officer or peace officer making an arrest for public intoxication may, at the officers' discretion, do either of the following:
    - a. If within reasonable proximity, take the individual to any of the following: the individual's home, the home of a relative of the individual, or a responsible person who is competent and willing to provide care, assistance, and treatment; or
    - b. Take the individual to an approved public or private treatment facility, or to the city lock-up or county jail if no facility is available, for up to, but not exceeding, 12 hours.
  - 3. Individuals taken to city lock-up or county jail shall be evaluated for nonalcoholic factors contributing to their intoxicated appearance.
- B. Penalty: a violation of this section is a class 3 misdemeanor. In addition to any other penalties authorized by law, the court may order a person sentenced under this section to perform community service work.

3-4-11 Aggressive panhandling

- A. Prohibited acts: it shall be unlawful for any person to solicit any money or other thing of value, or to solicit the sale of goods or services:
  - 1. In an aggressive manner in a public place;
  - 2. Within thirty (30) feet of any entrance or exit of any bank or within thirty (30) feet of any automated teller machine; or
  - 3. In any public transportation vehicle or from persons waiting within thirty (30) feet of a sign designating a public transportation stop; not including the operator of the public transportation vehicle.



- B. For the purpose of this section, “aggressive manner” means:
1. Intentionally, knowingly or recklessly making any physical contact with or touching another person in the course of the solicitation without the person’s consent;
  2. Approaching or following a person before, during or after soliciting if that conduct is intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value;
  3. Continuing to solicit from a person after the person has given a negative response to such soliciting;
  4. Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited or requiring the person to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one’s constitutional right to picket or protest shall not constitute obstructing passage; or
  5. Intentionally, knowingly or recklessly using obscene, abusive or threatening language or gestures which are intended or likely to cause a reasonable person to fear imminent bodily harm or which are reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
- C. Penalty: a violation of this section is a class 3 misdemeanor. In addition to any other penalties authorized by law, the court may order a person sentenced under this section to perform community service work.

3-4-11 Abandonment of Vehicles

- A. It is a civil violation for any person to abandon any vehicle on public or private property.
- B. Evidence that a vehicle was left unattended for a period of forty-eight (48) hours within the right-of-way of any highway, road,, street or other public thoroughfare or for a period of seventy-two (72) hours on public or private property or elsewhere is prima facie evidence of abandonment.
- C. Members of the police department so authorized by the Chief of Police may remove or cause to be removed any abandoned vehicle.

- D. Upon removal, the abandoned vehicle shall be appraised by a police officer designated by the Chief of Police and certified by the Arizona Department of Transportation.
- E. After the vehicle is appraised, it shall be disposed of pursuant to A.R.S. Title 28, Chapter 11, Article 2.
- F. Violations of this section may be charged as a criminal violation pursuant to section 1-1-11(A) or may be charged as a civil violation at the discretion of the police department. Upon finding a person responsible for a civil violation, the court shall impose upon such person a civil sanction of not less than five hundred dollars (\$500.00). The court shall not suspend the imposition of the minimum sanction unless the court finds by a preponderance of the evidence that the person corrected every violation or which he was found responsible, and that the person is in compliance with this Chapter. In that event, the court may, in its discretion, suspend all but seventy five dollars (\$75.00\_ of the sanction upon such conditions as the Court deems just.

3-4-12 Use of Auxiliary (Jake) Brakes prohibited

It shall be unlawful to operate a motor vehicle on any street or highway within the City limits with the assistance of an auxiliary engine brake (commonly referred to as a “jake brake”).

**ARTICLE 3-5 ANIMAL CONTROL**

- 3-5-1 Definitions
- 3-5-2 Animal Control Officer
- 3-5-3 Public Nuisance
- 3-5-4 At Large
- 3-5-5 Dangerous or Vicious
- 3-5-6 Disturbing the Peace
- 3-5-7 Swine
- 3-5-8 Diseased Animals
- 3-5-9 Impoundment
- 3-5-10 Quarantine Of Biting Animals
- 3-5-11 Penalty

3-5-1 Definitions

As used in this Article, the following definitions apply:

**ANIMAL CONTROL OFFICER:** The Animal Control Officer of the City, his designee or any peace officer responsible for the enforcement of this Chapter.

**ANIMAL OR ANIMALS:** Horses, mules, burros, cattle, goats, sheep, cats, dogs, swine, llamas, ostriches, emus or other livestock, poultry or any other animal that is susceptible to rabies, except man.

**AT LARGE:** Off the premises of the owner, not confined by an enclosure nor physically restrained by a leash not to exceed six (6) feet in length.

**COLLAR:** A band, chain, harness or suitable device worn around the neck of the dog to which a license must be affixed.

**CONTROL OF OWNER:** An owner or person responsible for the animal has immediate physical control of said animal by means of a lease, rope, chain or other suitable restraint not to exceed six (6) feet in length.

**DANGEROUS OR VICIOUS:** An animal or dog which has a propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation or which has been found to be a vicious animal by a court of competent authority, which bites, inflicts physical injury on or attacks a human being, or constitutes a physical threat to other animals.

**DOG:** A member of the "canis familiaris" family.

**LEASH:** A chain, rope or strap not more than six (6) feet in length, suitable for the control or restraint of an animal.

**OWNER:** Any person owning, keeping, possessing, harboring or maintaining a dog or an animal.

**POUND:** Any establishment authorized by the City for the confinement, maintenance, safekeeping and control of dogs that come into custody of the Animal Control Officer.

**REPEATEDLY:** More than three (3) times in any one (1) year period.

**VACCINATION:** An anti-rabies vaccination using a type of vaccine approved by the State Veterinarian, which must be administered by a licensed veterinarian

**WILD ANIMAL:** A non domesticated animal.

### 3-5-2 Animal Control Officer

It is unlawful for any person to, in any manner, intervene, impede, prevent, obstruct or intimidate the Animal Control Officer in the discharge of his duties in citing and impounding, or who shall rescue or attempt to rescue any animal which has been impounded.

### 3-5-3 Public Nuisance

Any animal which does any of the following is hereby declared to be a public nuisance, and may be subject to impoundment by the Animal Control Officer at cost of the owner. It is unlawful for any person to permit such animal or animals to:

- A. Molest passers-by or passing vehicles;
- B. Bite any human while at large;
- C. Attack other animals;
- D. Trespass on school grounds;
- E. Repeatedly be at large;
- F. Damage public or private property;
- G. Bark, whine, howl, crow or burrow in an excessive manner which disturbs the public peace;
- H. Repeatedly cause garbage to be thrown about.
- I. Urinate or defecate on private property of others without immediate removal of any animal waste.

### 3-5-4 At Large

- A. Unlawful: It is unlawful to permit any animal to run at large in the City. Any such animal may be impounded as provided in this Section.
- B. Picket or Tie in Streets: It is unlawful to picket or tie any animal on any of the streets or rights of way of the City for any reason if it interferes with the safe passage of pedestrians or vehicles.
- C. Impounding Authority: Any animal at large may be impounded by the Animal Control Officer.
- D. Liability for Damages: The owner of an animal is liable for damages caused by such animal while at large.

### 3-5-5 Dangerous or Vicious

It is unlawful to permit a dangerous or vicious animal of any kind to run at large within the City limits. Any such animals may be immediately impounded.

- A. Complaints: Upon complaint of any person, and after notice to the owner and a civil hearing, the City Magistrate may determine that an animal is dangerous or vicious and order one or more of the following:
  - 1. The destruction of said animal;
  - 2. That such animal be confined within a building or secure enclosure;
  - 3. That such animal be securely muzzled or caged at all times.
- B. Destruction: The Animal Control Officer is authorized to destroy any dangerous animal of any kind, upon an order from the City Magistrate, or when it is necessary for the protection of any person or property, when in their judgment the animal is:
  - 1. Dangerous or vicious; and
  - 2. Cannot be safely impounded.

#### 3-5-6 Disturbing the Peace

No person owning, keeping, possessing, harboring or maintaining an animal shall suffer or permit such animal to disturb the peace and quiet of any person any time of day or night by barking, whining, howling, crowing, braying or by making any other similar objectionable noise, by disturbing cultivated gardens, fields or landscaped yards. Any persons keeping or maintaining any animal within the City limits shall maintain that property so that any animal waste does not emit strong odors or cause a public health hazard.

#### 3-5-7 Swine

It is unlawful to keep any swine in the City, except in areas zoned for that purpose.

#### 3-5-8 Diseased Animals

- A. Prohibited: No animal knowingly afflicted with a contagious or infectious disease shall be allowed to run at large or be exposed to any public place whereby the health of man or beast may be affected.
- B. Removal: It shall be unlawful for any person knowing or suspecting an animal which has rabies or with a contagious or infectious disease to allow such an animal to be taken off his premises or beyond the limits of the City without the written permission of the Animal Control Officer. Every owner knowing or suspecting that an animal has rabies or any contagious or infectious disease shall immediately seek veterinary care, or notify the Animal Control Officer who shall either remove the animal to the pound or

summarily destroy it, except in cases where the State Health Officer or State Veterinarian is empowered to act.

### 3-5-9 Impoundment

#### A. Notice to Owners:

1. If the owner of any impounded animal shall be known to the Animal Control Officer and shall reside or have a known place of business in the City, the Animal Control Officer shall notify the owner of such animal personally or by letter through the post office or by notice placed at the residence of the owner within forty eight (48) hours after such animal has been impounded. The notice shall contain a description of the animal and shall state that unless reclaimed; such animal shall be adopted or destroyed at the time and place specified in the notice.
2. Livestock impounded pursuant to this Chapter may be sold at public auction to the highest bidder. Copies of the notice shall be posted at the place of impoundment and at the City Hall.

B. Report: The Animal Control Officer shall, after impounding any animal, make a report stating the kind of animal and describing it by color or otherwise or by any marks or brands that may be on it, and when it was impounded.

C. Conditions And Duration: The Animal Control Officer shall provide for the keeping of all animals impounded by the Department in a safe, convenient and comfortable place within or near the City limits and shall feed such animals at least once during every twenty four (24) hours and treat them in a humane manner during the time they are impounded, which shall not be less than seventy two (72) hours, unless sooner claimed by the owner.

D. Redemption: If the owner of any animal shall within seventy two (72) hours after such animal has been impounded, apply to the Animal Control Officer and pay the fees and charges established by this Chapter, the Animal Control Officer may deliver any such animal to the owner or shall arrange for the owner to pick up the animal from the pound or impound location, unless that animal has been impounded pursuant to Section 3-6-8 of this Chapter.

### 3-5-10 Quarantine of Biting Animals

Whenever any animal bites a person, such person and the owner of the animal shall immediately notify the Animal Control Officer, who shall arrange for quarantine of the

animal to be made and shall order the animal to be held on the owner's premises or shall have it impounded at the pound or at the veterinary hospital at the owners expense as long as necessary for a complete examination or for the length of the quarantine, which will not be less than ten (10) days. Livestock shall be confined and quarantined for the fourteen (14) day period in a manner regulated by the Arizona Department of Agriculture. Caged or pet rodents or rabbits shall not be quarantined or laboratory tested. If it is determined that the animal is infected with rabies or any other dangerous, infectious or contagious disease, it shall be the duty of the Animal Control Officer to destroy the animal. If, at the end of the quarantine or impoundment, it is determined that the animal is free from such disease, the animal shall be released and the owner will assume all the costs related to the quarantine or impoundment. If the animal dies during the period of quarantine or impoundment, its head shall be sent to the State Department of Health for examination. Any wild animals, with the exception of wild rodents or rabbits, which bite any person may be killed and submitted to the Animal Control Officer for transmission to an appropriate diagnostic laboratory. A wild rodent or rabbit may be submitted for laboratory testing if the animal has bitten a person and either the animal's health or behavior indicates that the animal may have rabies or the bite occurred in an area that contains a rabies epizootic as determined by the Department of Health Services.

### 3-5-11 Penalty

- A. Imposed: Unless otherwise provided herein, any person found violating any provision of this Chapter shall be guilty of a Class One misdemeanor, punishable in accordance with applicable State law. Any person violating Sections 3-5-3, 3-5-4, 3-5-7 of this Chapter and Sections 3-6-2 and 3-6-6 of this Chapter shall be guilty of a petty offense, punishable in accordance with applicable State law. If any violation be continuing, each day's violation shall be deemed a separate violation. If any person has two (2) prior petty offense convictions for violations of this Chapter or Article 3-5 of this Chapter such person may be charged with a Class One misdemeanor for any subsequent violation.
  
- B. Revocation Of License: Any dog license may be revoked where: 1) the owner has received two (2) or more convictions for violations of this Article in a twelve (12) month period; 2) the owner has been found guilty of animal cruelty pursuant to ordinance or State law; or 3) the owner has been found guilty of dangerous or vicious dog at large. Upon complaint and after notice to the owner and a civil hearing, the City Magistrate may issue an order revoking the license of such owner, order the removal of said animal, and order that no animals shall be harbored or reside with said person for a specified period of time.

### 3-6-1 Applicability

The provisions of Article 3-6 of this Chapter shall apply to dogs, unless such provision

specifically excludes dogs or unless there is a provision within this Article covering the same subject matter.

### 3-6-2 Vaccinations

- A. Required: No dog shall be allowed to reside in the City, unless said dog or dogs have a current vaccination for rabies administered by a licensed veterinarian.
- B. Certificate:
  - 1. Before a license is issued for any dog, the owner must present a current vaccination certificate signed by a veterinarian licensed by this State or a government veterinarian stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and serial number of the vaccine and date revaccination is due. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this Article and the regulation promulgated hereunder. A complete record of all of the above will be kept by the City of Holbrook Animal Control.
  - 2. A dog vaccinated in any other place prior to entry into the City may be licensed in the City; provided, that at the time of licensing, the owner of such dog presents a current vaccination certificate, signed by a veterinarian licensed to practice in that place or a veterinarian employed by a governmental agency in that place, stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and serial number of the vaccine used. The vaccination must be in conformity with the provisions of this Article and the regulations promulgated hereunder.
- C. Low Cost Clinics: The City of Holbrook Animal Control may make provision for low cost vaccination clinics as deemed necessary. The vaccination shall be performed by a licensed veterinarian.
- D. Impounded Unvaccinated Dogs: If a dog is impounded and found to be unvaccinated, the said dog will not be released until the rabies vaccination is administered and paid for by the owner. The vaccination shall be performed by a veterinarian, who shall issue a certificate of vaccination.

### 3-6-3 Licenses and Tags Generally

- A. License Required: All dogs four (4) months old or older kept, harbored or maintained in the City for at least thirty (30) consecutive days in a calendar year must be licensed and registered. Dog licenses shall be



issued by the City of Holbrook Animal Control, upon payment of a license fee, which license shall expire annually on March 31. The owner shall state at the time application is made for such license, the owner's name, address and telephone number, and the name, breed, color and sex of each dog owned or kept by him/her.

- B. Guide Dogs; Exemption: A guide dog belonging to a blind person who is a resident of the State or any bona fide nonprofit organization which is in the business of breeding, raising or training dogs that are to be used for guiding the blind shall, upon application by the owner or organization to the City and on presentation of proper proof, be licensed pursuant to this Article without the payment of a fee.
- C. Tags: Each dog licensed under the terms of this Article shall receive, at the time of licensing, a tag on which shall be inscribed the name of the City, the number of the license and the year in which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times except as otherwise provided in this Article. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee to be established by a resolution of council to the City of Holbrook Animal Control.
- D. Counterfeit Tag; Removal: It is unlawful for any person to counterfeit or attempt to counterfeit an official dog tag or remove such tag from any dog or place a dog tag on a dog unless the tag was issued to that dog, for the purpose of willfully complying with the provisions of this Chapter.
- E. New Ownership: Whenever the ownership of a dog has been changed, the new owner must secure a transfer of license to such owner. A transfer fee to be established by a resolution of council, payable to the City of Holbrook Animal Control shall be charged to transfer any license.
- F. Exemptions to Wearing Tag: Dogs while being used for hunting or dogs while being exhibited at recognized kennel club events, or dogs while engaged in races approved by the Arizona Racing Commission, and such dogs while being transported to and from such events need not wear a collar or harness with a valid license tag attached; provided, that they are properly vaccinated and licensed.
- G. Apprehend; Impound: The Animal Control Officer may apprehend and impound any dog found without a current valid license tag.
- H. Attachment of Tag: It shall be the duty of every owner or keeper of any dog kept within the limits of the City to cause the license tag herein above mentioned to be securely attached around the dog's neck and kept there at all times during the license period. Absence of the license tag from the

neck of any dog shall be "prima facie" evidence that the dog has not been licensed or vaccinated as provided in this Article. Any such dog shall be deemed to be stray or not owned.

#### 3-6-4 Fees

- A. Established; Amendment: Fees required to be paid by this Article which are not specified herein shall be as established by the City Council by resolution. Fees which are specified in this Article shall be in effect until such time as the fees are changed by the City Council by resolution.
- B. Specified: The license fee for a sterile dog is five dollars (\$5.00) per year. The license fee for an unsterile dog is ten dollars (\$10.00) per year. The fee for redemption of an impounded dog is twenty dollars (\$20.00) (impound charge). In addition, there is a \$5.00 per day maintenance fee for every day an animal is kept in the shelter. The impound fees will increase for each subsequent impoundment within one year (of the incident) of the same dog in the following manner:
  - 1. First impoundment: twenty dollars (\$20.00);
  - 2. Second impoundment: fifty dollars (\$50.00);
  - 3. Third impoundment: eighty dollars (\$80.00); and
  - 4. Fourth impoundment: one hundred sixty dollars (\$160.00).
  - 5. For each impoundment after the fourth impoundment the fees will double.

#### 3-6-5 Restraint

No person in charge of any dog shall permit such dog to be off the care taker or owner's property unless the dog is physically restrained by a leash, no more than six (6) feet, enclosed in a well-ventilated vehicle, cage or similar enclosure, or being exhibited or trained at a recognized kennel club event, public school or park sponsored event.

#### 3-6-6 Running at Large

- A. Prohibited: No person owning, keeping, possessing, harboring or maintaining a dog shall allow such dog to be at large.
- B. Exception: A dog is not deemed to be at large:
  - 1. While said dog is actively engaged in dog obedience training and is accompanied by and under the control of his owner or trainer.

2. While such dog is being used for hunting purposes.
3. While such dog is being exhibited or trained at a recognized kennel club event.
4. While such dog is engaged in races approved by the Arizona Racing Commission.
5. While such dog is being exercised at a recognized dog park.

### 3-6-7 Biting Dogs

- A. Reporting: Whenever a dog bites any person, the incident shall be reported to the Animal Control Officer immediately by any person having direct knowledge.
- B. Quarantine; Impoundment: Any dog that bites any person shall be quarantined and impounded, as prescribed in Section 3-6-8, for a period of not less than ten (10) days. The quarantine period shall start on the day of the bite incident. If the day of the bite is not known, the quarantine period shall start on the first day of impoundment. If the dog is impounded as a result of a dog bite incident, the owner shall pay a twenty dollar (\$20.00) impound fee and five dollars (\$5.00) per day for not less than ten (10) days.
- C. Destruction; Release: If the dog shows clear clinical signs of rabies or other dangerous, contagious and infectious disease, or if the owner consents to its destruction, it shall be the duty of the Animal Control Officer to destroy such dog in as humane a manner as is reasonably possible. If at the end of the quarantine or impoundment, the Animal Control Officer, after consultation with a veterinarian is convinced that the dog is free from such diseases, the dog shall be released. If the dog dies during the period of quarantine or impoundment the bite victim shall be notified immediately, and the animal's head shall be sent to the State Department of Health for an examination.

### 3-6-8 Impoundment

- A. Authority: The Animal Control Officer may apprehend and impound any dog found without a current valid license tag; any dog with or without a current valid license tag which is found running at large; any dog disturbing the peace; any dog which bites any person; or any dog which is a public nuisance as defined in Section 3-5-3. Said Officer shall have the right to enter upon private property when it is necessary to do so in reasonable pursuit of and in order to apprehend any dog subject to

impoundment.

- B. Notification to Owner: The Animal Control Officer shall notify the owner in person or by mail or by notice placed at the residence of the owner of any licensed dog impounded under the provisions of this Article.
- C. Time of Impoundment: Each unlicensed dog impounded shall be kept and maintained at the pound for a minimum of three (3) days. During the impoundment period, anyone with proper identification may claim the dog; provided that such person pays all established impound fees and completes the licensing provisions of this Article. If no person claims the dog after a reasonable period of time, the Animal Control Officer may place the animal for adoption or dispose of the dog in a humane manner.

### 3-6-9 Adoption

In accordance with Arizona Revised Statutes, Section 11-1022 (sterilization of impounded dogs), and amendments thereto:

- A. Spay Or Neuter Required:
  - 1. A dog shall not be released for adoption from a county, City or town pound or from an animal shelter unless the dog has been surgically spayed or neutered.
  - 2. The adopting party must sign an agreement to have the dog spayed or neutered within thirty (30) days or before sexual maturity and deposit with the pound or shelter an amount sufficient to ensure that the dog will be sterilized. The pound or shelter shall refund to the adopting party any monies deposited pursuant to the agreement if within the time provided in the agreement there is presented a written statement signed by a licensed veterinarian that the adopted dog has been spayed or neutered. The deposit required for spaying is sixty dollars (\$60.00) and for neutering is fifty five dollars (\$55.00). If the adopting party does not spay or neuter the dog and provide a receipt to the City within thirty (30) days, the fee is forfeited to the City.
- B. Fee: The City adopting fee is fifteen dollars (\$15.00), which includes the license fee.
- C. Use of Funds: Deposit monies that are not refunded must be used in public education to prevent overpopulation of dogs and cats. The Animal Control Division may fund or help fund and coordinate public education classes or handouts.

3-6-10 Rabies Epidemic

- A. Whenever the prevalence of hydrophobia renders such action necessary to protect the public health and safety, the mayor or his/her designee shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless it is muzzled so that it cannot bite. No person shall violate such proclamation and any unmuzzled dog running at large during the time fixed on the proclamation may be destroyed by the Animal Control Officer without notice to the owner.

3-6-11 Penalty.

Any violations of this Article shall be punishable in accordance with Article 3-5-11(A).

**ARTICLE 3-7 CITY PARKS**

- 3-7-1 Supervision
- 3-7-2 Presence in Parks
- 3-7-3 Intoxicating Beverages
- 3-7-4 Riding Vehicles on Grounds
- 3-7-5 Improper Use of Facilities
- 3-7-6 Animals
- 3-7-7 Camping
- 3-7-8 Garbage and Trash
- 3-7-9 Glass Bottles or Containers
- 3-7-10 Use Contrary to Regulations; Permit Required
- 3-7-11 Additional Rules and Regulations; Authority

3-7-1 Supervision

The City shall supervise all parks, park scheduling and park maintenance. Any construction, alterations, additions or repairs to the parks affected by anyone other than the City shall require written advance permission and comply with all specifications imposed by the City or its designated agent for such purposes.

3-7-2 Presence in Parks

- A. Hours Authorized: It is unlawful for any person to be upon or remain upon any City park, ball field, golf course or public right of way between twelve o'clock (12:00) p.m. and dawn of each day.
- B. Exception: Any authorized City employee or such other person as authorized in writing by the City Manager shall be exempt from subsection A of this Section.

3-7-3 Intoxicating Beverages; Permit Required

No person shall consume spirituous liquor of any kind on the City playgrounds, ball fields or parks.

3-7-4 Riding Vehicles on Grounds

No person shall, at any time, drive or ride any automobile, truck, motorcycle, motor scooter or other motor vehicle upon the grounds of any City park, playground, ball field or golf course, except in public streets running through such premises or within designated parking areas located upon such premises, without the written permission of the City Manager or such other person as the City Council may designate.

3-7-5 Improper Use of Facilities

No person shall damage or improperly use the toilets or water and sewer facilities in any City park, playground, ball park or golf course or cause the lighting facilities to be turned on during other than normal hours, without the written consent of the City Manager or such other person as the City Council may designate.

3-7-6 Animals in City Parks

No animals shall be allowed in City parks, golf courses, playgrounds or ball fields, unless such animals are leashed and under the direct physical control of the owner.

3-7-7 Camping

No person shall sleep overnight or camp overnight in any City park or its adjacent streets, except by written permit issued by the City Manager or other person designated by the City Council.

3-7-8 Garbage and Trash

No person shall dump, spill, deposit, place, throw or leave refuse, rubbish, filthy or odor causing objects, substances or other trash in the parks, playgrounds, ball fields, golf course or any other City-owned or operated recreation area. No trash, except that associated with picnic activity at the part or recreation area shall be deposited in the trash receptacles provided by the City at these locations.

3-7-9 Glass Bottles or Containers

No person shall bring glass bottles or containers into or on the premises of the parks, playgrounds, ball fields, golf course or any other City-operated recreation area.

### 3-7-10 Use Contrary to Regulations; Permit Required

Any individual or group who wishes to use parks in a manner contrary to this Chapter must obtain a park use permit from the City Manager or other person designated by the City Council.

### 3-7-11 Additional Rules and Regulations; Authority

The City Council may adopt additional rules and regulations from time to time as they deem reasonably necessary for the safety and efficient use by the public of the parks.

## ARTICLE 3-8

### SECTIONS:

- 3-8-1 Unreasonable noise generally prohibited.
- 3-8-2 Loud radios, sound sets, and the like.
- 3-8-3 Vehicular noise.
- 3-8-4 Construction of buildings or other projects.
- 3-8-5 Exemptions.
- 3-8-6 Penalty for violations.

### 3-8-1 Unreasonable noise generally prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued, within the limits of the city, any disturbing, excessive or offensive noise that causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. The characteristics that should be considered in determining whether a violation of the provisions of this section should include, but not be limited to, the following:

1. The level of the noise;
2. Whether the noise is usual or unusual;
3. Whether the noise is natural or unnatural;
4. The level of the ambient noise in the area;
5. The proximity of the noise to sleeping facilities;
6. The nature and zoning of the area from which the noise emanates, and the area

where it is received;

7. The time of day or night the noise occurs;
8. The duration of the noise; and
9. Whether the noise is recurrent, intermittent or constant.

### 3-8-2 Loud radios, sound sets, and the like.

a. The use or operation of any sound production or reproduction device, radio receiving set, musical instrument, drums, phonograph, television set, loud speakers and sound amplifier, or other similar machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet or comfort of any reasonable person of normal sensitivity in any area of is prohibited; provided, however, this provision shall not apply to any participant in a parade, gathering or similar activity who has been authorized by the city to engage in such conduct.

b. Any of the following shall constitute prima facie violations of this section:

1. The operation of any device set forth in subsection a. Hereof between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of one hundred feet or more from the building, structure, vehicle or area where the source is located.

2. The operation of any sound amplifier, which is part of, or connected to, any radio, stereo receiver, compact disc player or other similar device, when operated in such a manner as to be plainly audible at a distance of one hundred feet or more from the source, or when operated in such a manner as to cause a person to be aware of vibration accompanying the sound at a distance of one hundred feet or more from the source.

### 3-8-3 Vehicular noise.

a. It shall be unlawful for any person within any residential area of the city to repair, rebuild or test any motor vehicle between the hours of 9:00 p.m. and 6:00 a.m. in such a manner as to create any excessive, unnecessary or offensive noise, such that a reasonable person or normal sensitivity residing in the area is caused discomfort or annoyance.

b. No person shall operate, or cause to be operated, any motor vehicle within the city unless the exhaust system of such vehicle:

1. Is free from defects which may cause sound level magnification;
2. Is equipped with a functioning muffler;
3. Has not been modified in such a manner which will amplify or increase the sound level emitted by the motor vehicle above that emitted by a muffler originally installed on the vehicle as manufactured for initial sale.



c. The use of any and all exhaust brakes, engine brakes, engine retarders, or similar devices shall be prohibited within the city; provided, however, that it shall be an affirmative defense to a violation of this paragraph that such device was used by the operator as a result of a bona fide emergency, and was reasonably necessary for the protection of persons and/or property.

#### 3-8-4 Construction of buildings or other projects.

a. General prohibition. It shall be unlawful for any person to operate equipment or perform any outside construction or repair work on buildings, structures or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist or any other construction-type device, except within the time periods specified in this section, unless an appropriate permit authorizing different times has been obtained beforehand from the city.

b. Construction start/stop times.

1. Construction in residential zones. From April 15 to October 15, inclusive, all construction or repair work conducted within five hundred feet of a residential property zone shall not begin prior to 5:00 a.m. and must stop by 9:00 p.m. each day. From October 16 to April 14, inclusive, such work may only be conducted between the hours of 6:00 a.m. and 7:00 p.m.
2. Other construction in commercial or industrial zones. Construction and repair work in commercial or industrial zones (not located within five hundred feet of a residential property zone) shall not begin prior to 5:00 a.m. and must stop by 9:00 p.m.
3. Weekends and holidays. Notwithstanding any other provision of this section, construction or repair work shall not begin prior to 6:00 a.m. on any Saturday, and 7:00 a.m. on any Sunday or state or federal holiday.

c. Permits. Construction and repair work may be conducted at different times than otherwise permitted, if upon written application, a permit is obtained beforehand from the city manager or his designee. The permit shall be kept on the work site and shown to building or law enforcement officials on request. In granting such permit, the city manager or his designee shall consider if construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of different population levels or different neighboring activities; if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; if the kind of work to be performed emits noises at such a low level as not to cause significant disturbance in the vicinity of the work site; if the neighborhood of the proposed work site is of such a character wherein sleep could be disturbed; if great economic hardship would occur if the work was spread over a longer time; if the work will abate or prevent hazards to life or property; if proposed early morning or night work is in the general public interest; and, he shall prescribe such conditions, working times, types of construction equipment to be used, and permissible noise emissions as he deems to be required in the public interest. No

permit shall be required to perform work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency, which has or may result in a disruption of service, and which is necessary to protect the health, safety and welfare of persons or property.

d. Revocation of permits. The city manager or his designee may revoke any permit granted hereunder, upon complaint based upon evidence that the construction activity caused significant disturbance in the vicinity of the work site.

e. Notice to stop work. Whenever any work on a construction project is in violation of any provision of this section, the city may, in addition to other remedies for the violation, order the construction project stopped by notice in writing served on any persons responsible for the project, and all persons thereafter shall stop work on the project until authorized by the city to once again proceed with such work.

### 3-8-5 Exemptions.

The following uses and activities shall be exempt from the provisions of this chapter:

1. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;

2. Noises created by any city vehicle, equipment or facility while being operated for official use;

3. Operation of agricultural equipment in connection with farming operations;

4. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations or air traffic control instructions pursuant to, or within, duly adopted federal air regulations, together with any noise created by aircraft operated under, or pursuant to, declaration of an emergency under federal air regulations;

5. Noises resulting from "emergency work," which, for purposes of this section, shall mean work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency, which has or may result in the disruption of utility or other vital service, and which is reasonably necessary to protect the health, safety and welfare of persons or property.

6. Noises resulting from a special event being held within the city. (i.e. Parades, Navajo County Fair or High School sporting events.)

### 3-8-6 Penalty for violations.

#### A. Treatment as civil violation.

A violation of any provision of this chapter shall be prosecuted as a civil offense, and the hearing officer shall impose a civil sanction of not less than two hundred fifty dollars, nor more than two thousand five hundred dollars, for each violation.

B. Habitual offender. A "habitual offender" is a person who commits a violation of any provision of this chapter, after having previously been found responsible for two or more violations within a twenty-four-month period, whether by admission, by payment of the fine, by default or judgment after hearing. For purposes of this section, the dates of calculating the twenty-four-month period shall be the dates of commission of the offenses. Offenses committed by habitual offenders, as defined herein, shall be treated as a class 1 misdemeanor, punishable by a sentence of incarceration not to exceed six months, a fine not to exceed two thousand five hundred dollars (exclusive of penalty assessments prescribed by law), or both. The court shall not suspend the imposition of the minimum sanction unless the court finds by a preponderance of the evidence that the person has corrected every violation for which he was found responsible, and that the person is in compliance with this chapter. In that event, the court may, in its discretion, suspend all but one hundred fifty dollars (\$150.00) of the sanction upon such conditions as the court deems just.

Criminal

- A. Every person who intentionally, knowingly, willfully or recklessly causes, allows, suffers or permits a violation of this chapter to exist with respect to such land, building or structure commits a class one misdemeanor.
- B. Upon conviction, the court, at a minimum, shall sentence the defendant to a fine of not less than two hundred fifty dollars (\$250.00) and to probation for not less than one year. The court may suspend the imposition of the minimum fine or probation unless the court finds by a preponderance of the evidence that the defendant has corrected every violation for which the defendant was found guilty, and that the defendant is in compliance with this chapter. In that event the court may, in its discretion, suspend all but one hundred dollars (\$100.00) of the fine on the condition that the defendant does not commit another criminal violation of this chapter for three (3) years following the date of sentencing.
- C. Actions not exclusive. The city's election to prosecute a civil or criminal action to enforce the provisions of this chapter does not limit or restrict the city's ability to bring against the defendant any other action authorized by law.
- D. Violations-separate violations on daily basis. Each violation of this chapter shall constitute a separate violation for each day that the owner permits the violation to occur, and may be prosecuted and punishable as an individual and separate offense for each day that the owner permits the violation to occur