

## CHAPTER 85. GENERAL REGULATIONS

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### 85. GENERAL REGULATIONS

85.01. Prostitution. Subdivision 1. Definitions:

- (1) "Sexual intercourse" means sexual penetration, however slight.
- (2) "Sodomy" means carnally knowing any person by the anus or by or with the mouth.
- (3) "Prostitution" means engaging or offering or agreeing to engage for hire in sexual intercourse, or sodomy.

Subd. 2. Unlawful Acts. Whoever intentionally does any of the following is guilty of a misdemeanor:

- (1) Engages in prostitution; or
  - (2) Is supported in whole or in part by the earnings of a prostitute; or
  - (3) Offers or agrees to hire another person to engage in sexual intercourse or sodomy.
- (1905, 8/1/77)

85.02. Indecent Conduct. No person, in any public or private place, shall engage in, or offer or attempt to engage in, or congregate because of:

- (1) Lewd, lascivious or immoral conduct;
- (2) The use of slanderous, foul, obscene, or indecent language; or
- (3) The indecent or lascivious exposure or use of the human body, or any part thereof.

(1292, 12/21/64; 3233, 3/16/99)

85.021. Public Indecency. Subdivision 1. It is declared to be the purpose and intent of this ordinance to protect the public health, safety, welfare, and morals of the community at establishments featuring total nudity by curtailing the varied criminal offenses which are associated with total nudity and to protect societal order and morality.

Subd. 2. No person, in an adult establishment, shall knowingly or intentionally engage in sexual intercourse, engage in deviate sexual conduct, appear in a state of nudity, or fondle

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the genitals of himself/herself or another person.

Subd. 3. No person, in a place other than an adult establishment, with the intent to be seen by persons other than invitees and occupants of that place, shall engage in sexual intercourse, engage in deviate sexual conduct, or fondle the genitals of himself/herself or another person.

Subd. 4. For purposes of this section, "nudity" shall mean the showing of the human male or female genitals, pubic areas, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

Subd. 5. For purposes of this section, "adult establishment" shall mean an establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age (including any business licensed under R.C.O. ch. 125A) or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or specified anatomical areas.

Subd. 6. For purposes of this section, "specified sexual activities" shall mean activities consisting of the following:

- a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphis, zooerasty; or
- b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
- e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or

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- f) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- g) Human excretion, urination, menstruation, vaginal or anal irrigation.

Subd. 7. For purposes of this section, "specified anatomical areas" shall mean anatomical areas consisting of:

- a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
- b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Subd. 8. Any person violating this section shall be guilty of a misdemeanor.

If any term or provision of this ordinance is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected and the ordinance shall be construed and enforced as if the ordinance did not contain the particular term or provision held to be invalid.

(2813, 5/5/92)

85.022. Cabaret Dancing. Subdivision 1. It is declared to be the purpose and intent of this ordinance to protect the public health, safety, and welfare of the community at establishments featuring erotic dancing by curtailing the varied criminal offenses which are associated with erotic dancing. The City of Rochester Common Council has determined that erotic dancing may lead to an increase in prostitution, sexually-transmitted diseases, drug and alcohol offenses, and other criminal activity. However, in recognition of the protections afforded to the citizens under the First and Fourteenth Amendments, it is not the intent of this section to inhibit the freedom of speech component of erotic dancing. Instead, this section represents a balancing of competing interests: reduced criminal activity through the regulation of erotic dancing versus the protected rights of erotic dancers and their patrons. Thus, this section is designed to alleviate undesirable social problems that accompany erotic dancing without curtailing the constitutionally-protected expression (i.e., dancing).

Subd. 2. The following definitions shall apply to words used in this section:

- a) "Adult Cabaret" shall mean an establishment which provides dancing or other live entertainment which is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or

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specified anatomical areas.

b) "Erotic Dancer" shall mean a person who dances or otherwise performs for or in a licensed premises or an adult cabaret and who seeks to arouse or excite the patrons' sexual desires.

c) "Fondle or Caress" shall mean an affectionate touching, rubbing, or stroking with the intent to sexually arouse or excite.

d) "Licensed Premises" shall mean any premises, for which a license to sell intoxicating liquor or wine, or non-intoxicating liquor has been issued pursuant to R.C.O. ch. 125A, which provides dancing or other live entertainment which is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or specified anatomical areas.

e) "Patron" shall mean a customer of a licensed premises or adult cabaret.

f) "Specified anatomical areas" shall mean anatomical areas consisting of:

- 1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
- 2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

g) "Specified sexual activities" shall mean activities consisting of the following:

- 1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphis, zooerasty; or
- 2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- 3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or

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- 4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
- 5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- 6) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- 7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Subd. 3. a) All dancing at a licensed premises or an adult cabaret shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor. b) No dancing at a licensed premises or an adult cabaret shall occur closer than six feet to any patron. c) No erotic dancer shall fondle or caress any patron and no patron shall fondle or caress any erotic dancer. d) No patron shall directly pay or give any gratuity to any erotic dancer and no erotic dancer shall solicit any pay or gratuity from any patron.

Subd. 4. Any person violating this section shall be guilty of a misdemeanor. If any term or provision of this ordinance is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected and the ordinance shall be construed and enforced as if the ordinance did not contain the particular term or provision held to be invalid.  
(2814, 5/5/92)

85.03. Pandering and Peeping. Subdivision 1. Pandering. No person, in any public or private place, shall secure, or offer to secure, or entice or attempt to entice, another to engage in unlawful sexual intercourse, prostitution, or any lewd, lascivious or indecent act; nor shall any person accept knowingly any part of the earnings of a female from prostitution.

Subd. 2. Peeping. No person, in any public or private place, shall enter a toilet designated for the opposite sex or look into any window or other opening for an indecent, immoral or unlawful purpose.  
(1292, 12/21/64)

85.031. Public Urination – Prohibited. Any person who urinates or defecates on any public street, alley, sidewalk or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where such act could be observed by any member of the public, except in such place that has been designated as a restroom is guilty of a misdemeanor. (4069, 6/4/12)

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85.04. Participating in a Disorderly House. No person shall own, lease, operate, maintain, reside in, visit or entice or attempt to entice another to reside in or visit, any building or place with knowledge that unlawful sexual intercourse, prostitution, lewd, lascivious or indecent acts, gambling, or the unlawful sale of intoxicating liquor or non-intoxicating malt liquor occurs therein. Evidence of the general reputation of such a building or place as one where any of the foregoing occurs shall be prima facie evidence of such knowledge.  
(1292,12/21/64)

85.05. Pornography. Subdivision 1. Definitions. When used in this section the following words and phrases shall have the following meaning ascribed to them.

(1) "Disseminate" means to manufacture, issue, publish, sell, lend, distribute, display, transmit, broadcast, exhibit, or present material or to offer or agree to do the same.

(2) "Material" means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

(3) "Performance" means any play, motion picture film, dance, or other exhibition performed or shown before an audience.

(4) "Pornographic" means any material or performance in which the following coalesce:

(a) Considered as a whole by the average person applying contemporary community standards, it appeals to the prurient interest. In determining appeal to the prurient interest, the material or performance shall be judged with reference to the average person, unless it appears from the character of the material or performance and the circumstances of its dissemination that it is designed for a particular, clearly defined audience. In that case, it shall be judged with reference to the specific audience for which it was designed;

(b) It depicts or describes, in a patently offensive way, sexual conduct. In determining whether it depicts or describes sexual conduct in a patently offensive way, it shall be judged with reference to the contemporary standards of candor of ordinary adults relating to the description or representation of such conduct.

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(c) Taken as a whole, it lacks serious literary, artistic, political, or scientific value.

(5) "Sexual conduct" means acts, actual or simulated, of masturbation, homosexuality, lesbianism, bestiality, sadomasochistic abuse, or sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.

(6) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(7) "Sadomasochistic abuse" means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

Subd. 2. Displaying Indecent Material. It is unlawful for a person to knowingly or recklessly disseminate in such a manner that it may be seen or heard and distinguished by normal viewing or listening from a public street, highway, sidewalk, or park:

(1) Any material which is pornographic; or

(2) A photograph, drawing, sculpture, or visual representation which represents or depicts in a patently offensive way a person in a state of sexual excitement or a person of the age of puberty or older with less than a full opaque covering over his or her pubic area, genitals, or buttocks, and which (i) considered as a whole by the average person applying contemporary community standards, appeals to the prurient interest, and (ii) taken as a whole, lacks serious literary, artistic, political, or scientific value.

Subd. 3. Engaging in Indecent Conduct. It is unlawful for a person to knowingly or recklessly participate in, produce, present, or direct a performance or portion of a performance which is pornographic and which is distinguishable by normal viewing or listening from a public street, highway, sidewalk, or park.

Subd. 4. Indecent Material or Conduct: Prima Facie Evidence. Evidence that a person engaged in conduct specified by subdivisions 2 and 3 is prima facie evidence that he or she engaged in that conduct with knowledge of or in reckless disregard of the character, content, or connotation of the material or performance.

Subd. 5. Promoting Pornography. It is unlawful for a person to, knowing its content and character:

(1) Disseminate for monetary consideration any pornographic material; or

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(2) Produce, present, or direct a pornographic performance for monetary consideration; or

(3) Participate for monetary consideration in that portion of a performance which makes it pornographic.

Subd. 6. Promoting Pornography: Prima Facie Evidence. Evidence that a person engaged in conduct specified by subdivision 5 is prima facie evidence that he or she engaged in that conduct with knowledge of the character and content of the material disseminated or the performance produced, presented, directed, participated in, exhibited, or to be exhibited. (1292, 12/21/64; 1527, 11/17/69; 1761, 4/1/74; 1905, 8/1/77)

85.06. Unlawful Assembly in Parking Lot. No person unless authorized by a city permit shall assemble with one or more other persons on a city parking lot, except that it shall not be a violation of this section to lawfully park a vehicle in a city parking lot and leave the lot without delay, or go upon a city parking lot and without delay proceed to a lawfully parked vehicle and then leave. The term "city parking lot" as used in this section means any parking lot used by the city or by others under contract with the city for either public or restricted off- street vehicular parking purposes. A violation of this section is a petty misdemeanor. (1985, 9/5/78)

85.065. Disturbing An Assembly or Meeting. Whoever does any of the following in a public or private place, including a school bus, knowing that it will, or will tend to, alarm, anger, or disturb others or provoke an assault or breach of the peace, is guilty of Disturbing An Assembly or Meeting:

- A. Disturb an assembly or meeting, not unlawful in its character, so long as such disturbance is caused by unprotected, nonexpressive conduct and not speech.

(4320, 10/16/17)

85.07. Soliciting in Stations. No person shall, while on the premises of any bus company, railroad company or airport, solicit customers, passengers or guests for any hotel, motel, restaurant, rooming house or boardinghouse, without the written consent of the person in charge of such premises. (993, 7/7/58)

85.08. This section repealed April 8, 1997.  
(531, 11/7/38; 3086, 4/8/97)

85.09. Interference with Radio Reception. Subdivision 1. Prohibition. No person shall use, maintain or operate any apparatus or device whether electrical, mechanical, or of any



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other sort so as to cause electro-static or electro-magnetic waves to radiate so as to interfere with radio reception within the city. The above prohibition shall be construed to apply to radio receiving equipment, either of the regenerative type or of any other type, vibrating battery chargers, sign changers, electric refrigeration machines, electrically driven oil pumps or furnace equipment, high tension ignition systems, electric transmission lines, gas or electric power plants, defective insulators, badly sparking motors and badly sparking generators, which interfere with radio reception, whether on account of the manner of construction or manner of operation of the apparatus.

Subd. 2. Exception as to Time. It shall not be unlawful to cause radio interference between midnight and 7:00 a.m. of any day.

Subd. 3. Exception as to Wave Length. It shall not be unlawful to cause radio interference on wave lengths of more than six hundred meters.

Subd. 4. Exception as to Licensed Stations. This section shall not be construed to apply to any radio sending station duly licensed by the department of commerce of the United States and sending messages on a wave length not within the broadcast band.

Subd. 5. Exception as to Certain Machines. It shall not be unlawful to operate violet-ray machines, diathermal machines, or any other electro-medical devices causing radio interference between 7:00 a.m. of any day and 6:00 p.m. provided that such interference is reduced as much as is reasonably possible in every available way, and particularly by not using the devices, except when reasonably necessary by equipping the devices so far as is reasonably possible with filters, condensers, shields, and grounds, with any other apparatus tending to reduce interference.

It shall not be unlawful to operate x-ray machines, or other electro-medical machines operated under charge of a duly licensed physician or dentist whenever necessary, provided such interference is reduced so much as is reasonably possible as explained in the preceding paragraph.

Subd. 6. Application Outside of City. This section applies to apparatus located in Olmsted county outside of the city, if it interferes with radio reception in the city.

Subd. 7. Notice of Violation. After notice by a police officer of violation of this section, specifying a time between 2 and 10 days to correct the violation, continuance of the violation beyond such time shall constitute a separate offense for each day of continuance. Giving such notice is not, however, a prerequisite to prosecution for a single violation.  
(409, 9/24/29)

85.10. Noises Prohibited. Subdivision 1. Unnecessary Noises Generally. No person shall make, continue, or cause to be made or continued any loud, unnecessary or unusual

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noise which unreasonably annoys, disturbs, injures or endangers the comfort, convenience, safety, health, welfare or repose of persons in the vicinity thereof, unless the making, continuing, or causing to be made or continued of such noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person. The receipt of a sound amplification permit under the provisions of Chapter 117 of this code is a defense to this section so long as the permittee complies with the conditions contained in the permit. Law enforcement may issue citations for noise that exceeds or is otherwise in violation of this subdivision or the conditions contained in a sound amplification permit, and may order the person violating this subdivision to stop making the noise or using the sound amplification device.

Subd. 2. Construction or Repair of Buildings, or Construction work. (A) The erection (including excavation), demolition, alteration or repair of any building requiring a building permit or the performance of any construction work occurring between the hours of 10:00 p.m. and 7:00 a.m. on Monday through Saturday, from 10:00 p.m. Saturday through 12:00 p.m. Sunday, and from 10:00 p.m. Sunday through 7:00 a.m. Monday is a violation of this section. For purposes of this section, "construction work" shall mean any and all activity incidental to the erection of buildings, structures, roads, flood control facilities, or appurtenances thereto, including land clearing, grading, excavating, and filling.

(B) Notwithstanding this section, a permit may be obtained to allow construction work to occur during the prohibited hours described in (A) in cases of urgent necessity in the interest of public health and safety. The permit shall be granted for a period not to exceed three days, shall continue only so long as the necessity continues, and may be extended for additional periods of three days or less so long as the necessity continues.

(C) Notwithstanding this section, a permit may be obtained to allow construction work to occur during the prohibited hours described in (A) if it is determined that the public health and safety is not impaired by the erection, demolition, alteration, or repair of any building, or the performance of construction work occurring during such hours, and further that no loss or inconvenience would result to any party in interest. Application for a permit may be made at the time the permit for the work is awarded or during the progress of the work.

(D) The permits described in (B) and (C) shall be issued by the building inspector in cases involving a building for which a building permit is required. In all other cases, the permit shall be issued by the city engineer.

Subd. 3. Parties and Gatherings. No person shall, between the hours of 11:00 p.m. and 7:00 a.m., attend or participate in any party or gathering of four or more persons from which noise emanates in sufficient volume to disturb the peace, quiet, comfort or repose of persons in any hospital or office, or in any dwelling, hotel, motel or other type of residence, or

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of any persons in the vicinity; nor shall any person visit or remain in any dwelling, structure or place where such party or gathering is taking place, except persons who have gone there for the purpose of abating such noise or disturbance.

Subd. 4. Permitted Sounds. Nothing in this section shall be construed to classify as loud, unusual, or unnecessary sounds from any of the following activities:

- (1) Marching and/or playing of music by bands, orchestras, or other musical aggregations in conjunction with a city celebration, festival, or other neighborhood or community event; an event presented or sponsored by the City's music department, or the practice for or presentation of an event sponsored by a local public or private school.
- (2) Church bells, chimes and carillons.
- (3) Duly authorized parades.
- (4) Construction work conducted pursuant to the conditions identified in Subd. 2 above or pursuant to the conditions in any permit authorizing such activity.

Subd. 5. Devices Used to Produce Sound. No person shall use, operate, or permit to be played any radio tape or disc player, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner, considering the time and place and the purpose for which the sound is produced, so as to disturb the peace, quiet or repose of a reasonable person of ordinary sensibilities.

- A. The play, use, or operation of any radio, tape or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at a distance of fifty feet from such machine or device shall be prima facie evidence of a violation of this subdivision.
- B. When sound violating this subdivision is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner is guilty of the violation, provided, however, that if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.
- C. This subdivision shall not apply to sound procured by the following:

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- (1) Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the City of Rochester so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
  - (2) Church bells, chimes or carillons;
  - (3) School bells;
  - (4) Anti-theft devices; or
  - (5) Machines or devices for the production of sound on or in authorized emergency vehicles.
- D. With the exception of the machines or devices listed in clause (C), this subdivision shall apply to all radios, tape and disc players, musical instruments, phonographs, and machines and devices for the production or reproduction of sound, whether on public or private property.

(917, 4/2/56; 927, 6/4/56; 1410, 8/7/67; 1782, 10/7/74; 2358, 3/13/84;(2798, 3/24/92; 3040, 6/4/96; 3286; 11/16/99; 3905, 1/21/09)

85.11. Auto Trailers. Subdivision 1. Definitions. As used in this section an "automobile trailer" includes a trailer coach or trailer, and is defined to mean any vehicle or structure designed and constructed in such manner as will permit use or occupancy thereof as sleeping or living quarters for one or more persons, and so designed or constructed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motive power.

Subd. 2. Restricted on Public Grounds. No automobile trailer shall be used or occupied as living or sleeping quarters while on the public streets, alleys or public grounds in the city except for loading and unloading purposes, and except on public grounds designated or authorized for use or occupancy by automobile trailers. Parking of automobile trailers shall be in accordance with the applicable parking requirements.

Subd. 3. Limited Use on Private Property. No automobile trailer shall be used or occupied as living or sleeping quarters for more than 30 days in any 12 month period while located on any private premises in the city, other than a licensed trailer coach park.

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Subd. 4. Sanitation; Zoning Compliance. No automobile trailer shall be used or occupied as living or sleeping quarters while parked on any public or private premises in the city at any time unless:

(1) Sewer, water and toilet facilities are available 24 hours each day on the premises where the automobile trailer is located or are available within 100 feet of such trailer on premises immediately adjoining the premises where such trailer is located.

(2) All provisions of the zoning ordinances of the city relative to set back and side yard requirements are strictly observed.

Subd. 5. Refuse. No person shall permit or allow any person to deposit or cast upon any street or alley or upon the surface of any public grounds or upon the surface of any private premises in the city any rubbish, garbage or other refuse, waste water or waste from any sink, shower or other fixture in an automobile trailer. All rubbish, garbage or other refuse shall be placed in proper containers and disposed of as required by this code.

Subd. 6. Wheels. No person or the owner of any automobile trailer shall permit any person to remove the wheels or running gear.  
(1132, 2/5/62)

85.12. This section repealed March 1, 1993.  
(966, 6/5/57; 2864, 3/1/93)

85.13. Discharge and Transportation of Weapon. Subdivision 1. For purposes of this section, the term "firearm" shall mean any weapon from which is propelled any dart, arrow, missile, projectile or bullet by means of explosive or gas, or by energy stored in a string or spring, notwithstanding the fact that such dart, arrow, missile or projectile remains attached to the weapon by wire.

Subd. 2. Prohibition. No person shall fire, discharge or transport any firearm within the City limits. A person may transport a firearm if it is in a closed case and not ready for immediate firing or discharge.

Subd. 3. Exceptions. This section does not apply to:

- A. Law enforcement or military personnel acting within the performance of their duty;
- B. Any person lawfully defending a person or property;
- C. The transportation by a person who has obtained a permit

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to possess or transport a pistol under the provisions of Minn. Stat. Section 624.714;

- D. A person discharging a firearm at a permitted outdoor or indoor shooting range; (4306, 6/5/17)
- E. Except as provided in subdivision 3 (H), a person lawfully hunting on public or private lands within the City that have been approved for use of firearms by the chief of police;
- F. A person whose firearm is using blank ammunition in conjunction with a sporting event or upon a ceremonial occasion, or in an effort to use noise in order to deter birds, varmints, or pests determined by the Council to be endangering the public's health, safety, or welfare;
- G. A person firing or discharging a firearm which propels a single projectile which is a spherical steel shot of .177 caliber or less, commonly referred to as a "BB gun;" or
- H. Devices commonly known as: (1) "Airsoft/Soft Air" guns which propel a six millimeter plastic pellet using compressed air or mechanical methods; (2) Paintball marker/guns which use compressed air to propel a projectile filled with marking paint or similar substance; or (3) Soft dart guns or Nerf guns using compressed air or mechanical methods to fire a projectile. (4103, 1/23/13)

Subd. 4. Any person who violates this section is guilty of a misdemeanor.

(966, 6/5/57; 2120, 5/5/80; 2166, 2/7/81; 2648, 8/22/89; 3715, 7/6/05; 3734, 9/19/05; 3830, 8/6/07; 3961, 3/15/10; 4103, 1/23/13)

85.135. Game Hunting Within the City. Subdivision 1. No person may use a firearm, bow or other dangerous weapon in hunting game within the City except as permitted in section 85.13, subdivision 3(E) or section 85.135, subdivision 2.

Subd. 2. A person may hunt deer or wild turkeys using a bow and pointed-tip arrow under all of the following circumstances:

- A. The shooting occurs on property the person owns or on another person's property if the shooter has in his possession written permission of the property owner to

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engage in the activity;

- B. The arrow does not travel beyond the boundaries of that property;
- C. Unless otherwise specified by written permission of the property owner, any shooting must occur at least 200 feet from any building and from any land not owned by that landowner;
- D. The shooting does not endanger anyone else;
- E. The person has in his or her possession a valid State of Minnesota Deer Archery or Turkey Season License.
- F. The person has completed a Bowhunter Educational Program and an Archery Proficiency Test, and is able to show proof of this proficiency as granted and administered by a certified Archery Instructor.
- G. A person archery hunting for deer must make use of a tree stand at least five feet from ground level unless a person engaged in hunting is physically unable. A person archery hunting for turkey must make use of a portable ground blind.
- H. Bow fishing may be done within the City in accordance with the State of Minnesota fishing regulations, except that bow fishing will be prohibited in the following waters:
  - (1) Silver lake between the 7<sup>th</sup> Street NE bridge and the T.H. 63 (North Broadway) bridge.
  - (2) Any waters located within the boundaries of Quarry Hill Park.
  - (3) The South Fork of the Zumbro River between the T.H 14 bridge and the T.H. 63 (South Broadway) bridge (Soldiers Field Golf Course).
  - (4) Cascade Creek and the future Cascade Lake area bounded by CSAH 22 ( West Circle Drive) on the west, T.H. 52 on the east, T.H. 14 on the north, and

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CSAH 34 ( 2<sup>nd</sup> Street SW) on the south.

Subd. 3. Any person who violates this section is guilty of a misdemeanor. The minimum penalty for a person's first offense under subdivision 2 is a fine of \$450. (3961, 3/15/10)

85.14. Mistreating, Injuring, Disabling, Killing, or Molesting Police Dog. It shall be unlawful for any person willfully or maliciously to torture, torment, beat, kick, strike, mutilate, injure, disable, or kill any dog used by the Police Department when such dog is being used in the performance of the functions or duties of such Department; or unwarrantably to interfere with or meddle with any such dog while such dog is being used by said Department, or with any officer or member thereof while such officer or member is using such dog in the performance of any of the functions or duties of said Department, or of said officer or members. (2164, 1/17/81)

85.15 Uninvited Entry. Subdivision 1. No person shall enter uninvited onto the lands of another to consume alcohol or a controlled substance. No person shall without invitation drive or operate a vehicle upon the lands of another in order to facilitate the consumption of alcohol or controlled substance on said lands.

Subd. 2. Determination of Purpose. For purposes of this section, in order to determine the purpose of an uninvited entry of a person or vehicle upon the lands of another, the following non-exclusive factors may be considered:

- (a) time of day;
- (b) presence of containers intended to contain or containing alcohol;
- (c) presence of equipment used to dispense alcoholic beverages;
- (d) Presence of paraphernalia containing identifiable residues of a controlled substance;
- (e) noise level;
- (f) lighting;
- (g) identified physiological responses;
- (h) conduct of persons in the presence of a peace officer.

Subd. 3. A person who enters the land of another with the express consent or whose entry is endorsed or ratified by the landowner shall not be deemed to violate this section, regardless of the purpose for which entry was made. (2509, 5/19/86)

85.20. This section repealed by Ordinance # 3899, 12/15/08.  
(3675, 10/4/04; 3899, 12/15/08)

85.21. This section repealed by Ordinance # 3899, 12/15/08.



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(3675, 10/4/04; 3899, 12/15/08)

85.22. This section repealed by Ordinance # 3899, 12/15/08.

85.23. This section repealed by Ordinance # 3899, 12/15/08.  
(3675, 10/4/04; 3899, 12/15/08)

85.24. This section repealed by Ordinance # 3899, 12/15/08.  
(3675, 10/4/04; 3899, 12/15/08)

85.25. Requirements for City Approvals. Subdivision 1. No city official, board, council or other city entity may grant a license, permit or other form of city approval or authorization to any person unless:

- A. The person has complied with all relevant statutory, charter and ordinance requirements;
- B. The person has paid all fees, charges, taxes, special assessments, or other debt or obligation owed by the person to the City regarding any other matter; and
- C. The person is in compliance with all ordinance requirements and previously imposed conditions of approval regarding any other city approval or authorization that was granted to the person.

Subd. 2. This section does not apply:

- A. If the person has provided sufficient safeguards to assure payment of debts or compliance with city requirements within a reasonable time after the city approval or authorization; or
- B. If enforcement of this section would result in a significant hardship to the person through no fault of his/her own or would result in an otherwise unfair situation.

85.26. Smoke Free Medical Zone. Subdivision 1. The State of Minnesota adopted its Freedom To Breathe Act of 2007 in order to protect employees and the general public from the hazards of secondhand smoke by eliminating smoking in public places, places of employment, public transportation and at public meetings. In that law, the Minnesota legislature specifically authorized home rule charter cities to enact and enforce more stringent measures to protect individuals from secondhand smoke. The Common Council determines that secondhand smoke is a detriment to the public health, safety and welfare and the quality of life of the citizens and visitors of the City. By the adoption of this ordinance, the

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City seeks to further protect its citizens and visitors seeking medical care from the harmful effects of secondhand smoke, and thereby promoting the public's health, safety and welfare.

Subd. 2. It shall be unlawful for any person to engage in smoking within the Second Avenue S.W., public right-of-way from the south line of the Center Street right-of-way to the termination of the Second Avenue S.W., right-of-way at the north line of the Annenberg Plaza; and also that part of the West Center Street right-of-way from the centerline of First Avenue S.W., extending westerly to the centerline of Third Avenue S.W. The term "smoking" means the inhaling or exhaling of smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product. "Smoking" also includes carrying a lighted cigar, cigarette, pipe, electronic cigarette, personal vaporizer, electronic nicotine delivery system, or any other lighted tobacco or plant product intended for inhalation.

(3960, 3/15/10; 3973, 6/21/10; 4138, 11/18/13)

85.27. Smoke Free Bus Shelters. Subdivision 1. The State of Minnesota adopted its Freedom To Breathe Act of 2007 in order to protect employees and the general public from the hazards of secondhand smoke by eliminating smoking in public places, places of employment, public transportation and at public meetings. In that law, the Minnesota legislature specifically authorized home rule charter cities to enact and enforce more stringent measures to protect individuals from secondhand smoke. The Common Council determines that smoking in and around public transit passenger shelters is a detriment to the public health, safety and welfare and the quality of life of the citizens of the City. Citizens of the City have a right to an environment free from excessive noise and sound that may jeopardize their health, safety or welfare, or degrade their quality of life. By the adoption of this ordinance, the City seeks to further protect its citizens and visitors from the harmful effects of secondhand smoke, and thereby promoting the public's health, safety and welfare.

Subd. 2. No person shall engage in smoking in a public transit passenger shelter or within 15 feet of the opening or entrance point of the shelter.

Subd. 3. For purposes of this section, the term "smoking" means the inhaling or exhaling of smoke from any lighted cigar, cigarette, pipe or any other lighted tobacco or plant product. "Smoking" also includes carrying a lighted cigar, cigarette, pipe, electronic cigarette, personal vaporizer, electronic nicotine delivery system, or any other lighted tobacco or plant product intended for inhalation. (4138, 11/18/13)

Subd. 4. For purposes of this section, the term "public transit passenger shelter" shall mean any public or private structure designed to provide shelter to persons waiting to board, or disembarking from, any form of public transportation service designed to transport passengers by means of a public bus or other public motor vehicle. (3957, 2/17/10)

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85.28. Smoke Free Municipal Parking Ramps. Subdivision 1. The State of Minnesota adopted its Freedom To Breathe Act of 2007 in order to protect employees and the general public from the hazards of secondhand smoke by eliminating smoking in public places, places of employment, public transportation and at public meetings. In that law, the Minnesota legislature specifically authorized home rule charter cities to enact and enforce more stringent measures to protect individuals from secondhand smoke. The Common Council determines that smoking in and around public transit passenger shelters is a detriment to the public health, safety and welfare and the quality of life of the citizens of the City. Citizens of the City have a right to an environment free from excessive noise and sound that may jeopardize their health, safety or welfare, or degrade their quality of life. By the adoption of this ordinance, the City seeks to further protect its citizens and visitors from the harmful effects of secondhand smoke, and thereby promoting the public's health, safety and welfare.

Subd. 2. No person shall engage in smoking in a Municipal Parking Ramp.

Subd. 3. For purposes of this section, the term "smoking" means the inhaling or exhaling of smoke from any lighted cigar, cigarette, pipe or any other lighted tobacco or plant product. "Smoking" also includes carrying a lighted cigar, cigarette, pipe or any other lighted tobacco or plant product intended for inhalation.

Subd. 4. For purposes of this section, the term "Municipal Parking Ramp" shall mean any City-owned parking ramp, parking lot, parking structure, or other facility intended for the public's use in parking motor vehicles. This term includes a lobby, stairway, elevator, or other area of the Ramp where a person gains access to or from the person's vehicle.

(4321, 10/16/17)

85.29. Smoke Free Library Zone. Subdivision 1. The State of Minnesota adopted its Freedom To Breathe Act of 2007 in order to protect employees and the general public from the hazards of secondhand smoke by eliminating smoking in public places, places of employment, public transportation and at public meetings. In that law, the Minnesota legislature specifically authorized home rule charter cities to enact and enforce more stringent measures to protect individuals from secondhand smoke. The Common Council determines that secondhand smoke is a detriment to the public health, safety and welfare and the quality of life of the citizens and visitors of the City. By the adoption of this ordinance, the City seeks to further protect its citizens and visitors traveling to and from the public library from the harmful effects of secondhand smoke, and thereby promoting the public's health, safety and welfare.

Subd. 2. It shall be unlawful for any person to engage in smoking along the north public right away of 2<sup>nd</sup> Street SE between the west public right of way of 1<sup>st</sup> Avenue SE and the east public right away of Civic Center Drive; from the west public right away of 1<sup>st</sup> Avenue SE between the north public right away of 2<sup>nd</sup> Street SE and the south most vehicle

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entrance of the Civic center parking Ramp; and along the east public right away of Civic Center Drive between the north public right away of 2<sup>nd</sup> Street SE and the south east corner of the Civic Center Parking Ramp. The term “smoking” means the inhaling or exhaling of smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product. “Smoking” also includes carrying a lighted cigar, cigarette, pipe, e-cigarette, personal vaporizer, electronic nicotine delivery system, or any other lighted tobacco or plant product intended for inhalation. (4134, 11/4/13)

(3133, 12/2/97; 3233, 3/16/99; 3675, 10/4/04; 3715, 7/6/05; 3734, 9/19/05; 3830, 8/6/07; 3841, 11/5/07; 3899, 12/15/08; 3905, 1/21/09; 3957, 2/17/10; 3960, 3/15/10; 3961, 3/15/10; 3973, 6/21/10; 4069, 6/4/12; 4103, 1/23/13; 4134, 11/4/13; 4138, 11/18/13; 4306, 6/5/17; 4320, 10/16/17; 4321, 10/16/17)