

CHAPTER IX

PUBLIC SAFETY

Section 900 - Emergency Services

(Repealed, Ord. 99-05; Added, Ord. 99-05)

900.01. Policy and purpose. Subdivision 1. Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure or other major incidents, and in order to insure that preparations of the city will be adequate to deal with such disasters and generally, to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of Independence, it is hereby found and declared to be necessary.

- (a) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.
- (b) To provide for the exercise of necessary powers during emergencies and disasters.
- (c) To provide for the rendering of mutual aid between the city, and other political subdivisions with respect to the carrying out of emergency preparedness functions.
- (d) To comply with the provisions of Minnesota Statutes, chapter 12, known as the Minnesota Emergency Management Act of 1996.
- (e) To participate as a member of the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee, review and accept its emergency plan as the city's basic plan for responses to emergencies, disasters, major incidents, mutual aid and other projects consistent with this section and Minnesota Statutes, chapter 12.

900.03. Definitions. For the purposes of this section, the following terms shall have the meanings given below unless another meaning is clear from the context. Subdivision 1. "Emergency Management" means the preparation for and the carrying out of all emergency functions, to prevent, minimize and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps or other major incidents. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical evacuation, congregate care,

emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out of the foregoing functions. Emergency management includes those activities sometimes referred to as “civil defense” or “emergency preparedness” functions.

Subd. 2. “Disaster” means a situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in major loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

Subd. 3. “Emergency” means an unforeseen combination of circumstances which calls for immediate action to respond, or prevent from developing or occurring.

Subd. 4. “Emergency management forces” means the total personnel resources engaged in city-level emergency management functions in accordance with the provision of this section or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

Subd. 5. “Emergency management organization” means the staff element responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state and local jurisdictions relative to disaster preparedness activities, major incidents, mutual aid, and other projects consistent with this section and assures implementation of federal, state, county and other program requirements.

Subd. 6. “Major incident” means any incident which exhausts local resources.

Subd. 7. “Emergency management mutual aid” means any disaster or major incident which requires the dispatching of city personnel, equipment or other necessary resources within or without the city limits.

Subd. 8. “Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee” means a committee made up of the Lake Minnetonka area emergency management directors which develops, renews and establishes a basic emergency plan, and identifies and coordinates training for member communities and reviews local plans, exercises, major incidents and disaster responses which are consistent with this section.

900.05. Establishment of an emergency management organization. There is hereby created with the city government an emergency management organization which shall be under the supervision and control of the emergency management director, hereinafter called the “director”. The director shall be appointed by the mayor. The director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization.

900.07. Powers and duties of the director. Subdivision 1. The director shall represent the city on any regional or state conference for emergency management. The director may develop additional mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present such agreements to the city for its consideration. Such arrangements shall be consistent with the emergency plan. The director shall also be the city’s representative on the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee.

Subd. 2. The director shall make assessments of personnel, businesses and industries, resources and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency, major incident or disaster.

Subd. 3. The director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present such plan to the city council for its approval. When the city council has approved the plan by resolution, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the basic emergency management activities of the city to the end that they shall be consistent and fully integrated with the basic emergency plan of the Lake Minnetonka Regional Emergency Management, Preparedness Planning and Review Committee, and federal and state governments.

Subd. 4. In accordance with the emergency plan, the director shall institute such training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the emergency plan when a disaster, major incident or mutual aid occurs.

Subd. 5. The director, during an emergency, major incident or mutual aid, shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all such departments and agencies shall be, to the maximum extent practicable, cooperative with and extend such services and facilities to the emergency management organization. The head of each department or agency in cooperation with the director shall be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

Subd. 6. The director shall, in cooperation with the existing departments and agencies affected, assist in the organizing, recruiting and training of such emergency management personnel, as may be required on a volunteer basis to carry out the emergency plans. To the extent that such emergency personnel are recruited to augment a regular department or agency for emergencies, they shall be assigned to such departments or agencies and shall be under the administration and control of said department or agency.

Subd. 7. The director shall carry out all orders, rules and regulations issued by the governing authority with reference to emergency management.

Subd. 8. The director shall prepare and submit such reports on emergency preparedness activities as may be requested by the governing authority.

900.09. Local emergencies. Subdivision 1. A local emergency, including a disaster, major incident or mutual aid response, may be declared by the mayor. It shall not be continued for a period in excess of three days except by or with the consent of the governing board of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the clerk-treasurer.

Subd. 2. A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable plans including fiscal expenditures which are consistent with this section.

Subd. 3. No other city agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions.

900.11. Emergency regulations. Subdivision 1. Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the governor of the state of Minnesota or the city, the city council may by resolution promulgate regulations, consistent with the applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services; emergency health, fire, and safety regulation drills, or practice periods required for preliminary training; and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

Subd. 2. Every resolution of emergency regulations shall be in writing, shall be dated, shall refer to the particular emergency to which it pertains, if so limited, and shall be filed with the clerk-treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the office of the clerk-treasurer shall be conspicuously posted at the front of the city hall or at such other places in the affected area as the city council shall designate in the resolution. By like resolution, the city council may modify or rescind any such regulation.

Subd. 3. The city council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule or regulation inconsistent with an emergency regulation promulgated by the city council shall be suspended during the period of time and to the extent such conflict exists.

Subd. 4. During a declared emergency, the director is, notwithstanding any statutory or charter provision to the contrary, empowered through the city council acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. The director may exercise such powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirements for budgets.

900.13. Emergency management a governmental function. All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which they would otherwise be entitled under this section or under the workers' compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

900.15. Participation in labor dispute or politics. The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute. The director may express professional opinions on legislative or other legal regulations consistent with the areas found in Minnesota Statutes, chapter 12.

900.17. Authorizing dispatch and use of city equipment and services by the director in emergency situations (mutual aid). Subdivision 1. The city finds it desirable and necessary to authorize the director to dispatch city equipment and personnel to local communities who request aid to combat their emergency, disaster, or major incident consistent with this section, and subsection 900.07, subdivision 5 hereof.

Subd. 2. The director shall evaluate the internal needs of the city, and dispatch appropriate available aid. The director shall immediately recall, order and terminate the use of any dispatched equipment and personnel when the need for their use no longer exists, or earlier, when it appears in the best interest of the city. Aid requested from outside the Lake Minnetonka Regional area, or extended local aid within the Lake Minnetonka Regional area, shall require mutual agreement between the director and the mayor.

Subd. 3. The director's acts shall be fully authorized as acts of the city, and all provisions for compensation of personnel, rental of equipment, liability insurance coverage, workman's compensation insurance and all other safeguards and matters pertaining to the city, its equipment and personnel, shall apply in each case as if specifically authorized and directed at such time, whether or not the city council has previously requested and provided for assistance and the use of equipment and personnel under a mutual protection agreement or other type of protection agreement within the city.

Section 905 - Fire Prevention

905.01. Fire protection provided. The city council shall provide fire protection by entering into contracts with various municipal and volunteer fire departments upon such terms and conditions as the city council may deem beneficial to the residents of the city.

905.03. Authority of fire chief under contract. The fire chief of each fire department contracting with the city shall have the powers and authorities set forth in such contract. In addition thereto the fire chief of each contracting fire department shall investigate the cause, origin and circumstances of each and every fire occurring in the district for which such chief is responsible and shall file a report thereon with the office of the state fire marshal as required by Minnesota Statutes, section 299F.04 and its successor statutes. The city fire marshal as established in subsection 300.11 of this code, shall have no duty to conduct such investigation. The authority of the city fire marshal shall be subordinate to that of the fire chief in each district, except as to matters contained in subsection 300.11 and subsections 905.15 through 905.23 of this code.

905.05. Traffic regulation. No person shall drive any vehicle over any fire hose except at the direction or the command of a police officer or a member of a fire department. Upon the approach of a fire department vehicle which is displaying emergency lights or sounding a siren the driver of every non-emergency vehicle shall drive the same to a position as near as possible to the right hand edge of a street outside of any street intersection and shall remain in such position until such fire department vehicle has passed or until otherwise directed by a police officer or a member of the fire department.

905.07. Spectators at emergency scene. The officer of the fire department in command at the scene of any fire or other emergency shall have the authority to establish an emergency zone within which no person except members of the fire department and the police department shall enter unless directed or permitted to do so by such officer in command. No person shall enter such emergency zone unless authorized as set forth herein.

905.09. Removal of endangered property. The officer of the fire department in command at any fire or other emergency shall have the power to cause the removal of any property whenever it becomes necessary for the preservation of such property or to prevent the spreading of any fire or to protect adjoining property and to that end may enter and may authorize a member of the fire department to enter any premises for the purpose of carrying out the intent of this paragraph. No person shall interfere with the removal of endangered property as set forth hereunder.

905.11. Tampering with a fire alarm system and issuing false alarms. It shall be unlawful for any person to tamper with or interfere with any element of any fire alarm system within the city. It shall be unlawful for any person to issue or cause to be issued an alarm of fire or other emergency condition when no fire or emergency exists.

905.13. Obstruction prohibited. No person shall park a vehicle or locate any object in such a way as to obstruct a fire hydrant. The stopping or parking of a vehicle within 15 feet of a fire hydrant shall be deemed an obstruction of such fire hydrant.

905.15. Purpose and intent of fire regulations. It is the purpose and intent of the fire regulations as set forth below to promote high standards of quality in the construction and maintenance of buildings to improve the tax base with well constructed and well maintained buildings, and to enhance the value and condition of property within the city. It is not the intent of these fire regulations to provide compensation to victims of fire, to guarantee absolute compliance with all fire regulations or to indemnify owners of private property against loss occasioned by their failure to comply with these fire regulations.

905.17. Fire inspection. Subdivision 1. Right of entry. The fire marshal shall have the authority subject to provisions of this subsection to enter private property for the purpose of making an annual inspection or an inspection in response to a complaint received directly by the fire marshal in marshal's official capacity. Entry by the fire marshal shall be with the consent of the record owner or legal occupant of the building.

Subd. 2. Annual inspections. The fire marshal shall prepare a list of the record owners of all property subject to the fire regulations and, on or before January 15th of each year, shall notify said record owner by first class mail that the building is subject to fire inspection without further notice.

Subd. 3. Consent. Consent to make any required inspections during the calendar year shall be deemed given by such record owner unless, on or before February 15th of the said calendar year the record owner files a written notice with the fire marshal withdrawing consent to the said inspections. Upon receipt of any notice of withdrawal of consent the fire marshal shall forward the same to the city attorney together with any supporting data required and the city attorney shall obtain an administrative inspection warrant from a judge of municipal court and return the same to the fire marshal.

905.19. Exercise of authority. The fire marshal shall have and exercise all the powers of a peace officer under the laws of the state of Minnesota provided that the fire marshal need not be a peace officer licensed by the state of Minnesota. No police officer or city employee shall exercise the duties of the fire marshal while on duty as a police officer or other city employee.

905.21. Fire regulations. Subdivision 1. Regulations established. The following fire regulations are established in the city for all premises zoned or used for commerce or industry, public buildings, schools, churches and multiple dwellings containing more than two dwelling units.

Subd. 2. Fire lanes. The fire marshal is hereby authorized and directed to recommend to the city council the establishment of a fire lane on public and private property in such places as may be necessary in order to insure that access is available at all times for fire fighting equipment and that fire hydrants, hoses, endangered buildings and other structures and appurtenances are not obstructed. Any such recommendation shall be forwarded to the city council and upon approval thereof by the city council appropriate signs bearing the words "NO PARKING-FIRE LANE" shall be erected at the expense of the city under the supervision of the director of public works. No person shall park a vehicle or locate any object in such a way to obstruct a fire lane.

Subd. 3. Maintenance of exit ways. Maintenance of exits, corridors, ramps and other appurtenances shall be regulated by article X of the 1973 uniform fire code which is adopted by reference except that abatement procedures shall be as set forth herein.

Subd. 4. Chimneys. All chimneys, incinerators, smokestacks and the stoves, furnaces, fire boxes or boilers to which they are connected shall be constructed and maintained in accordance with chapter IV hereof.

Subd. 5. Fire extinguishers and appliances. The fire marshal shall designate the type and number of fire appliances to be installed and maintained in and upon all buildings and premises governed by these fire regulations. The type and number shall be determined after considering the use and contents of the building, the severity of a probable fire and the rapidity with which it may spread.

Subd. 6. Garages. Public service garages shall be regulated by article XVIII of the 1973 uniform fire code which is adopted by reference.

905.23. Automatic alarm system; penalty for false alarms. Any person who owns, or maintains on premises occupied by that person, an automatic fire alarm system which sounds a false alarm more than twice during any calendar year shall pay to the city a civil penalty of \$100.00 for each such false alarm in excess of two.

905.25. Enforcement. Subdivision 1. Fire hydrants and fire lanes. Enforcement of the provisions of this section regulating the obstruction of fire hydrants and fire lanes may be commenced by the fire marshal or any peace officer in accordance with the Minnesota rules of criminal procedure.

Subd. 2. Fire regulations. The fire marshal shall enforce violations of the fire regulations by the issuance of a compliance order setting forth the violations and ordering the record owner or legal occupant of the premises to correct any such violations within a reasonable time. A copy of such compliance order shall be provided to the city clerk-treasurer. It shall be unlawful to fail or refuse to comply with a compliance order within the time established by the fire marshal. The compliance order shall:

- (a) Be in writing.
- (b) Describe the location and nature of the violations of this section.
- (c) Establish a reasonable time for the correction of such violation.
- (d) Be served upon the record owner by first class mail or personally upon the legal occupant of the premises.

Subd. 3. Criminal prosecution. Upon failure of the record owner or legal occupant to comply with a compliance order within the time set therein, the fire marshal shall provide all relevant information to the city attorney and the city attorney shall prosecute the person or persons responsible for violation of the fire regulations.

Subd. 4. Removal of hazardous conditions. Upon conclusion of the criminal prosecution the city attorney shall notify the fire marshal and the fire marshal shall make an inspection of the premises. If the violation which was the subject matter of the criminal prosecution has not been corrected the fire marshal shall provide all relevant information to the city council and the city council may proceed to correct the violation under the hazardous and substandard building act, Minnesota Statutes, section 463.15 et. seq.

Subd. 5. Penalties. Each day that a violation of this section continues shall be deemed a separate punishable offense. No provision of this section designating the duties of any official or employee of the city shall be so construed as to make such official or employee liable for the penalty provided in this section or any civil damages or penalty, because of failure to perform such duty. The penalty shall be that set forth in chapter 115 of this code.

905.27. Fire prevention code adopted. Subdivision 1. There is hereby adopted by the city council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain code known as the fire prevention code, abbreviated edition, recommended by the American insurance association, being particularly the 1965 edition thereof except such portions as are hereinafter deleted, modified or amended, of which code not less than three copies have been and now are filed in the office of the clerk-treasurer and the same are hereby adopted and incorporated as fully as if set out at length herein.

Subd. 2. Enforcement. The code hereby adopted shall be enforced by the building inspector.

Subd. 3. Dangerous substances. The limits referred to in section 53b of the fire prevention code in which storage of explosives and blasting agents is prohibited, the limits referred to in section 74a of the fire prevention code in which storage of class I liquids in outside above-ground tanks is prohibited and the limits referred to in section 114 of the fire prevention code in which bulk storage of liquefied petroleum gas is restricted are herein established.

Subd. 4. Modifications. The building inspector shall have power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee or a duly authorized agent when there are particular difficulties in the way of carrying out the strict letter of the code provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the building inspector thereon shall be entered upon the records of the building department and a signed copy shall be furnished the applicant.

Subd. 5. Appeal. Whenever the building inspector shall disapprove an application or refuse to grant a permit applied for or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the fire prevention code have been misconstrued or wrongly interpreted the applicant may appeal from the decision of the building inspector to the city council within 30 days from the date of the decision appealed.

Subd. 6. Penalty. Any person who shall violate any of the provisions of the fire prevention code or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy such violations or defects within a reasonable time and when not otherwise specified each ten days that prohibited conditions are maintained shall constitute a separate offense.

Subd. 7. Enforced removal of prohibited conditions. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

905.29. Open burning. Subdivision 1. Purpose. The purpose of this section is to establish permitted categories of open burn events for residences within the city of Independence and provide for a permitting process for residential and agricultural open burning except when such open burning is defined as a "recreational fire" as prescribed in this section. (Amended, Ord. 92-03, Sec. 2)

Subd. 2. Definitions. For the purpose of this section, the terms defined herein have the meanings given them.

- (a) Open burning. Open burning means the burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a recreational fire as defined herein.

- (b) Recreational fire. Recreational fire means a fire set with approved starter fuel no more than three feet in height and diameter, contained within the board of a "recreational fire site" using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation or social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane or natural gas devices are not defined as recreational fires.
- (c) Recreational fire site. Recreational fire site means an area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks of ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a fire site as defined herein. Recreational fire sites shall not be located closer than 50 feet to any structure or 25 feet from any lot line.
- (d) Starter fuels. Starter fuels means dry, untreated, unpainted kindling, branches or cardboard, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.
- (e) Wood. Wood means dry, clean fuel only as twigs, branches, limbs, "presto logs", charcoal, cordwood or untreated dimensional lumber. "Wood" does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths. (Amended, Ord. 92-03, Sec. 2)

Subd. 3. Prohibited materials. No person shall conduct, cause or permit open burning of oils, petro fuels, rubber, plastics, chemically treated materials, or other material which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers. No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food. (Amended, Ord. 92-03, Sec. 2)

Subd. 4. Permit required for open burning. No person shall start or allow any open burning on any property in the city of Independence without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire burned in a recreational fire site as defined herein. (Amended, Ord. 92-03, Sec. 2)

Subd. 5. Purposes allowed for open burning. Open burn permits may be issued only for the following purposes:

- (a) Elimination of fire or health hazard that cannot be abated by other practical means.
- (b) Ground thawing for utility repair and construction.
- (c) Disposal of vegetative matter for managing forest, prairie, or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.
- (d) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

Fire training permits can only be issued by the Minnesota pollution control agency (MPCA).

No fire may be allowed to smolder with no flame present. (Amended, Ord. 92-03, Sec. 2)

Subd. 6. Permit application for open burning and permit fees. Open burning permits shall be obtained by making application on a form prescribed by the department of natural resources (DNR) and MPCA and adopted by the city and by west Hennepin public safety department. The permit shall be presented to the west Hennepin public safety department staff person designated by the director for reviewing and processing said applications.

An open burning permit shall require a non-refundable application fee. In the event the open burning permit application is approved, the permit fee shall be volume based. Application and permit fees shall be set annually by city council resolution. However, the city council may at other times amend its resolution setting the fees as it deems necessary. The fees established by city council resolution shall continue to be the required fee until amended by a resolution. Fees collected shall be retained by the department issuing the permit to help offset the administrative costs of issuing permits. (Amended, Ord. 92-03, Sec. 2)

Subd. 7. Permit process for open burning. Upon receipt of the completed open burning permit application and permit fee, the west Hennepin public safety department staff person shall determine that the requirements for open burning under this code are satisfied. Thereafter, a permit may be issued. The permit issued is for 30 days and the permit holder must contact west Hennepin public safety department on the day of the proposed burn. (Amended, Ord. 92-3, Sec. 2)

Subd. 8. Permit holder responsibility. Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or their competent representative. The open burning site shall have available appropriate communication and fire suppression equipment. The open burn fire shall be completely extinguished before the permit holder or their representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this section, available for inspection on the site by the application department, west Hennepin public safety department, MPCA representative, and/or DNR forest officer.

The permit holder is responsible for compliance and implementation of all general conditions, special conditions and the burn event safety plan as established in the permit issued. In addition to any criminal liability, the permit holder shall be responsible for all costs incurred by the city, any fire department and any adjoining property owners, as a result of the burn, including, but not limited to, fire suppression costs, property damage, personal injury and administrative fees. (Amended, Ord. 92-3, Sec. 2)

Subd. 9. Revocation of open burning permit. The open burning permit is subject to revocation at the discretion of the MPCA commissioner, a DNR forest officer, the applicable fire chief or the west Hennepin public safety department. Reasons for revocation include, but are not limited to: a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present. (Amended, Ord. 92-3, Sec. 2)

Subd. 10. Denial of open burning permit. If established criteria for the issuance of an open burning permit are not met or during review of said application, it is determined that a practical alternative method of disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the west Hennepin public safety department, then the west Hennepin public safety department staff person may deny the open burning permit application. (Amended, Ord. 92-03, Sec. 2)

Subd. 11. Burning ban or air quality alert. No recreational fire or open burn will be permitted when the city's fire chief, fire marshal, director of public safety or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert. (Amended, Ord. 92-03, Sec. 2)

Subd. 12. Rules adopted by reference. Minnesota Rules parts 7005.0705 to 7005.0805 "open burning," Minnesota Statutes 88.16 to 88.17 and Minnesota uniform fire code are hereby adopted by reference and made a part of this section as if fully set forth herein. (Amended, Ord. 92-03, Sec. 2)

Subd. 13. Penalty. Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction, shall be punished by a fine and/or imprisonment. In addition to any criminal liability, the person violating any provision of this chapter shall be responsible for all costs incurred by the city, any fire department, and any adjoining property owners, as a result of the burn, including, but not limited to, fire suppression costs, property damage, personal injury and administrative fees.

Section 910 - Animals, Dogs
(Deleted, Ord. 92-02, Sec. 1)
(Added, Ord. 92-02, Sec. 2)

910.01. Definitions. Subdivision 1. For purposes of this section, the terms defined herein have the meanings given them.

Subd. 2. "Animal control officer" means the city's police/public safety agency or such other person or agency under contract with the city to provide animal control services. (Added, Ord. 2008-08)

Subd. 3. "At large" means off the property of the owner and not under restraint of the owner or a member of the owner's immediate family.

Subd. 4. "Dangerous animal" means any animal which has attacked, molested, bitten, confined or assaulted a person or domestic animal, or which otherwise has demonstrated that it poses a significant risk of causing harm or injury to persons or domestic animals.

Subd. 5. "Dangerous dog" means any dog that has:

- (a) without provocation, inflicted substantial harm on a human being on public or private property;
- (b) killed a domestic animal without provocation while off the owner's property;
- (c) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals. (Added, Ord. 2008-08)

Subd. 6. "Owner" means any person owning, keeping, harboring or having custody of a dog or other animal within the city.

Subd. 7. "Potentially dangerous dog" means any dog that:

- (a) without provocation, inflicts bites on a human or domestic animal on public or private property;
- (b) without provocation, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- (c) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals. (Added, Ord. 2008-08)

Subd. 8. "Proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting. (Added, Ord, 2008-08)

Subd. 9. "Provocation" means an act that could reasonably be expected to cause a dog to attack or bite. (Added, Ord. 2008-08)

Subd. 10. "Under restraint" means controlled (i) by a fence, leash or owner's command within the confines of the owner's property, or (ii) by a leash under the control and direction of the owner or a member of the immediate family, so as to be as effectively restrained, or (iii) within a vehicle that is enclosed sufficiently so as to prevent the animal from exiting the vehicle.

Subd. 11. "Unreasonably disturb the peace and quiet" means generally, but is not limited to, the creation of any noise by any animal which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a five-minute period of time with one minute or less lapse of time between each animal noise during the five-minute period.

Subd. 12. "Wild animal" means any ape, including chimpanzee, gibbon, gorilla, orangutan or siamang; baboon, bear, bison, bobcat, cheetah, crocodile, coyote, deer, including all members of the deer family such as elk, antelope and moose, elephant, ferret, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, ostrich, puma, also known as cougar, mountain lion or panther, rhinoceros, a snake which is poisonous or nonindigenous, or any constrictor snake, snow leopard, tiger, wolf, or other animal that is wild, ferocious, or vicious by nature, habit, disposition or character.

910.03. Abandonment. It is unlawful for any person to abandon a dog or other animal within the city.

910.05. Licenses. Subdivision 1. License required. No person shall own, harbor, keep or have custody of a dog over six months of age within the city, unless a current license for the dog has been obtained and the tag affixed as herein provided.

Subd. 2. Duration of license. Licenses shall be issued on a one-time basis for each licensed animal. (Amended, Ord. No. 98-01, Sec. 1)

Subd. 3. License fee amount. The license fee for each dog shall be set by resolution of the city council. (Amended, Ord. No. 98-01, Sec. 2)

Subd. 4. (Repealed, Ord. No. 98-01, Sec. 3)

Subd. 5. Issuance of licenses: veterinarian's certificate to accompany application. All licenses shall be issued by the city clerk or police department personnel, and applications therefor shall be accompanied by a certificate issued by a veterinarian licensed to practice in the state of Minnesota, showing that the dog has been vaccinated against rabies within a period of two years preceding the application for a license.

910.07. Tags. Subdivision 1. Issuance of tag: content: registry. The city clerk shall provide and furnish for each licensed dog a metallic tag upon which there shall be stamped or engraved the register number of the dog, the letters "IND" and the year when licensed. The city clerk shall keep a registry of the dog so licensed and said registry shall contain the name and address and phone number of the owner, a description of the dog and the number of the license.

Subd. 2. Replacement of lot tags; procedure; fee. If any license tag is lost or stolen, the owner may obtain a new tag by surrendering the receipt for the first tag or by other proof of the fact that the dog has been previously licensed and by paying the fee as set by resolution of the council.

Subd. 3. Use of tag and collar. Each owner shall place and keep around the neck of the dog a collar on which the current license shall be securely fixed.

Subd. 4. Counterfeiting or transferring the tags prohibited. No person shall counterfeit any such license tag or use a counterfeit tag. A license tag is not transferable to any other animal nor to a new owner of a dog with respect to which such tag was issued.

910.09. Kennels. Subdivision 1. Kennel licenses. No person shall own, harbor, keep or have custody of four or more dogs over six months old on their property without having first secured a kennel license as required herein. for the purpose of this subsection, "commercial kennel" means a place where four or more dogs over six months of age are kept for purposes of breeding, training, sale or boarding for a profit. For the purpose of this section, "hobby kennel" means a place where four or more dogs over six months of age are kept for purposes of breeding, training, sale or boarding not for a profit.

Subd. 2. Annual review. All kennel licenses shall be reviewed annually on or before January 1 when the commercial kennel license fee shall become due and all matters pertinent to applications shall be considered together with any complaints or neighborhood changes that may have occurred from the prior year. The annual renewal license fee for a commercial kennel shall be established by resolution of the city council. Hobby kennels shall be excluded from the annual license fee but they must license each dog with the kennel as provided herein.

Subd. 3. Kennels must be clean. Kennels shall be kept in a clean and healthful condition at all times and shall be open for inspection by the city authorities at any time. A kennel license may be revoked by the city council by reason of the violation of this subsection or any health or nuisance order, law or regulation.

Subd. 4. Late-license penalty fees. If the license is obtained after a dog or dogs from such kennel have been impounded, then there shall be a penalty fee added to the regular license fee equal to the regular license amount. This fee shall be paid in addition to any dog licensing, impounding or boarding fees which shall be required prior to release of the dog.

Subd. 5. Issuance of license. No kennel license or renewal shall be issued except upon action of the city council following review of the kennel license application by the director of public safety and planning commission. The application shall contain information pertaining to the proximity of the applicant's property to surrounding neighbors, the number and types of dogs to be kept on the property and the proposed housing of the dogs together with other factors which the city council may deem pertinent from time to time. The director of public safety shall first refer the application to the planning commission for special use permit hearings that may be deemed necessary and upon a favorable recommendation of a special use permit from the planning commission to the city council, the director of public safety shall refer the application to the city council which may grant or deny the permit after review.

Subd. 6. Display of license. Persons granted a kennel license shall be issued a certificate which must be conspicuously displayed at the kennel location. Failure to display such certificate shall constitute prima facie evidence that such license has not been secured.

910.11. Dogs prohibited from running at large. Subdivision 1. General rule. No owner of a dog shall permit it to be at large within the city. Every owner of a dog shall keep it under restraint at all times.

Subd. 2. Certain animals. No owner shall allow a female dog in heat or a dangerous animal to be at large anywhere within the city.

Subd. 3. Impoundment of dangerous animals. The director of public safety is hereby authorized to impound any dangerous animal found within the city.

910.13. Public nuisances; abatement of nuisance; notice of violation. Subdivision 1. General rule. No person shall own, keep, harbor or allow to be kept or harbored any animal which by loud or frequent barking, howling or yelping shall unreasonably disturb the peace and quiet in the vicinity thereof.

Subd. 2. Clean-up. No owner shall permit their animal to damage or foul any lawn, garden or other property. An owner shall have the responsibility of cleaning up any feces of the animal and to dispose of such feces in a sanitary manner.

Subd. 3. Notice. Upon the receipt of a written complaint of a violation of subdivision 1 by two or more persons residing in the vicinity of such an animal, or upon request of a law enforcement officer or animal control officer, the director of public safety shall notify the owner to abate the nuisance within 48 hours. Failure to such notice shall be a violation of this section. For the purposes of this section, members of the same family unit residing in the same dwelling shall be regarded as one person.

910.14. Designation of dangerous or potentially dangerous dogs; registration requirement.
Subdivision 1. Designation.

- (a) Upon receipt of evidence that a dog has acted in a manner meeting the definition of a “dangerous dog” or a “potentially dangerous dog,” the animal control officer shall so designate the dog. The animal control officer will notify the owner of the dog in writing that the dog is dangerous or potentially dangerous. The notice will include a brief explanation of the incident(s) or act(s) leading to the designation.
- (b) If the dog is designated dangerous, the animal control officer will provide the owner with a registration form and request for hearing form. Any dog determined to pose a serious threat to public safety, including due to lack of proof of a current rabies vaccination, shall be impounded.
- (c) No dog may be declared dangerous or potentially dangerous due to posing a threat or causing injury or damage to a person:
 - (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
 - (2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - (3) who was committing or attempting to commit a crime. (Added, Ord. 2008-08)

Subd. 2. Registration requirements. Any person who owns or possesses a designated dangerous dog in the city must register the dog as provided herein. Within 14 days of notice of a dangerous dog designation or, in the event the designation is appealed, within 14 days of a final decision affirming the designation, the owner of a dangerous dog must file a completed registration form with the animal control officer. The city shall issue such registration along with an easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, which must be affixed to the dog’s collar at all times, upon the owner’s presentation of proof that:

- (a) the dog will be kept in a proper enclosure and the premises have been posted with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children; and
- (b) the owner has obtained a surety bond issued by a company authorized to conduct business in Minnesota, or a policy of liability insurance issued by an insurer authorized to conduct business in Minnesota, in a form acceptable to the city in the amount of at least \$300,000.00, payable to any person injured by the dangerous dog, or insuring the owner for any personal injuries inflicted by the dangerous dog;

- (c) the owner will pay an annual fee of \$500.00, in addition to any regular dog licensing fees, to obtain and maintain the registration; and
- (d) the owner has had microchip identification implanted in the dangerous dog; and
- (e) the dog is current on all vaccinations. (Added, Ord. 2008-08)

Subd. 3. Noncompliance with registration requirement. The animal control officer shall immediately seize a dangerous dog if the foregoing registration requirements are not timely complied with. The owner or custodian may reclaim the dog upon payment of impounding and boarding fees, and presenting proof to the animal control officer that all other registration requirements have been met. (Added, Ord. 2008-08)

Subd. 4. Appeal of dangerous dog designation.

- (a) Within 14 days after a dangerous dog designation is made by the animal control officer, the owner or custodian of the dog may submit a written request for hearing to contest the designation. If the dog is impounded, the animal control officer may require that any party requesting an appeal post security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of impounding of the dog.
- (b) The city council shall appoint itself or a committee thereof, the city administrator, or an independent hearing examiner to serve as the hearing officer for an appeal from a dangerous or potentially dangerous dog designation. The dog owner shall be informed of the time and place for the hearing not more than 14 days after submission of a request for hearing. The hearing officer will make findings of fact and will either affirm or reject the animal control officer's designation. The hearing officer shall make a final decision within seven days of the hearing.
- (c) If the hearing officer confirms the dangerous dog designation, the owner or custodian of the dog shall complete the dangerous dog registration form and file it with the animal control officer within 14 days of final decision.
- (d) The owner or custodian of the dog may request that the animal control officer review a dangerous dog designation annually. An administrative hearing fee of \$100.00 shall be required prior to such a review. At the review, the owner or custodian must provide evidence that the dog's behavior has changed. If the animal control officer finds sufficient evidence that the dog's behavior has changed, the animal control officer may rescind the dangerous dog designation. (Added, Ord. 2008-08)

Subd. 5. Exemptions. The provisions of this section do not apply to police K-9 dogs used by law enforcement officials for police work. (Added, Ord. 2008-08)

Subd. 6. Violation a misdemeanor. The owner of a dog declared dangerous or potentially dangerous who fails to comply with the requirements of this section shall be guilty of a misdemeanor, with penalties as provided under Minnesota law. (Added, Ord. 2008-08)

910.15. Animal pound. Subdivision 1. Animal pound authorized. The city council may provide for a city animal pound, either within or outside the limits of the city.

Subd. 2. Enforcement. It shall be the duty of the director of public safety together with the person or persons designated by the city council as the animal control officer to enforce the provisions of this section and to transport or cause to be transported to the city pound any or all dogs or other animals kept within the city contrary to the provisions of this section. The animal control officer is authorized to issue tags and sign complaints against any person for violation of the provisions of this section.

Subd. 3. Keeping and reclaiming impounded dogs. Any dogs so impounded shall be kept for at least five days unless sooner reclaimed by the owner thereof. The owner of any impounded dog may reclaim the same by paying the impounding fee as set by resolution of the council plus the cost of the keep of such dog in said pound and any penalties due and payable and upon exhibiting to the keeper of the pound a license duly issued pursuant to the provisions of this section shall take possession of the animal.

Subd. 4. Disposing of unclaimed dogs. Any dog not reclaimed within five days after being impounded may be disposed of by the pound keeper, provided that such dog has not bitten or been suspected of biting any person.

Subd. 5. Accounting by pound keeper. The pound keeper shall keep an accurate account of all dogs or other animals received at the pound and of all animals killed, released or disposed of therefrom, and shall make a monthly accounting thereof to the city clerk.

910.17. Animals bites. Subdivision 1. Notice. Whenever any person owning, possessing or harboring any dog or other animal within the city shall learn that such animal has bitten any human being, such person shall immediately notify the director of public safety.

Subd. 2. Animal bites.

- (a) Impoundment. Whenever the director of public safety learns that any human being has been bitten by a dog or other animal in the city, the director shall ascertain the identity of such animal and the person owning, possessing or harboring it, and shall immediately direct such person to forthwith impound such animal as herein required. Said officer may seek whatever legal process is necessary to enter private property to carry out this directive.

- (b) Dogs. If a dog has bitten a human being while on the premises of its owner and said dog is currently licensed and vaccinated against rabies infection, the director of public safety or animal control officer may permit the dog to be impounded upon the premises of its owner provided that it is kept apart from members of the general public during such impoundment period. If under the circumstances the dog is not currently licensed, the director of public safety or animal control officer may permit the owner of such dog to immediately obtain a license therefor paying all fees required including late licensing fees.
- (c) Fees. The impoundment fee for any animal that is impounded in the city pound a second time for biting a human being shall be double the regular impoundment fee provided elsewhere in this code. The director of public safety shall order and direct the transport of such animal to the city pound. Any animal so impounded shall be kept continuously so confined for a period of ten days after the day the animal bit a human being.

Subd. 3. Rabies; inspection. It shall be the duty of the director of public safety or a designee to insure that every animal that has bitten a human being is inspected from time to time during its period of confinement to determine whether such animal is infected with rabies. For this purpose, the director of public safety or a designee shall have access to all reasonable hours to the premises where such animal is kept. The period of confinement for such animal shall be terminated only upon the express authorization of the director of public safety or a designated authority of the West Hennepin Public Safety Department following inspection and the completion of ten-day confinement period.

910.19. (Repealed, Ord. 2008-08; Added, Ord. 2008-08) Destruction of dangerous dogs or animals. The animal control officer may order the destruction and disposal of any dangerous dog or other animal and the owner is liable to the animal control authority for costs incurred. In the event a dangerous dog designation is appealed and the designation is upheld on appeal, the animal control officer may order the dog destroyed. Additionally, any dog or other animal that is impounded for other lawful reasons may be destroyed if not reclaimed within five days unless such animal has bitten or is suspected of having bitten a person and rabies testing is required.

910.21. State statutes; adopted by reference. The provisions of Minnesota Statutes, sections 35.67, 35.68 and 35.69 are hereby adopted by reference and are incorporated in and made part of this section as completely as if the same were set out in full.

910.23. Trapping. Subdivision 1. Definitions. For purposes of this subsection, the term "trap" means any mechanical device, snare, artificial light, net, bird line, ferret, hawk, vehicle or contrivance used to trap, catch, snare, kill or otherwise restrain the free movement of any non-domestic animals, wildlife or birds; and the term "trapping" means the setting, laying or otherwise using a trap to catch, trap, snare, kill or otherwise restrain the free movement of non-domestic animals, wildlife or birds.

Subd. 2. Trapping prohibited; platted areas. All trapping on private property within or upon platted lands in the city is prohibited except:

- (a) When the owner of such private property has expressly consented to allow trapping thereon; and
- (b) Upon the issuance by the director of public safety of a permit therefore after a showing that such trapping is necessary to eliminate a nuisance.

Subd. 3. Trapping prohibited; unplatted areas. All trapping on private property within or upon unplatted lands in the city is hereby prohibited unless the person engaged in such trapping has received written permission from the owner of such private property to allow trapping thereon.

Subd. 4. Exceptions. The provisions of this subsection do not apply:

- (a) To persons who employ a trap on their private property to prevent an unsafe condition, or the waste or destruction of their property, when such persons have complied with applicable state laws;
- (b) To governmental officers who may in the course of their duties be required to use a trap to catch, trap, snare, kill or otherwise restrain the free movement of any animal, wildlife or birds for humane or other authorized purposes; and
- (c) To teachers for school programs or to scientists intending to identify animals, wildlife or birds and then return them to their natural environment.

Subd. 5. Violation of this subsection is a misdemeanor.

910.25. Wild animals prohibited. No person shall keep or allow to be kept anyplace in the city a wild animal as defined in subsection 910.01, subdivision 7. The director of public safety shall be empowered to immediately impound any "wild" animal found within the city and to seek whatever legal process is necessary to enter private property to carry out this directive. It is not a defense to allege that the animal has been tamed.

Subd. 2. Notice and hearing. The same notice and hearing provisions set forth in subsection 910.19, subdivisions 2 and 3 shall apply with respect to the issue of whether an animal is "wild." The director of public safety shall make whatever order deemed proper, including, but not limited to, destruction of the animal, if consistent with state and federal law, transfer of the animal to a zoo or other facility, and reimbursement by the owner of the reasonable costs of temporary impoundment and transportation of the animal.

910.27. In the event that the provisions of section 910 of the Independence code provide inadequate protection for human life or property, the director of public safety or a designee shall be authorized to seek court order(s) requiring immediate seizure, impoundment, destruction or testing of an animal, or other relief as required in the interests of public health and safety.

Section 915 - Regulation of Lake Sarah and Lake Independence Surface Use
(Added, Ord. 00-11)

915.01. Authority to regulate water surface use. Pursuant to Minnesota Statutes, sections 86B.205 and 459.20, the city has entered into a joint powers agreement with the city of Greenfield for the purpose of regulating the surface use of the body of water known as Lake Sarah. This section 915 is effective until repealed or until the joint powers agreement is terminated.

915.03. Definitions. Subdivision 1.

- (a) Terms used in this section related to boating, including “slow no-wake,” are defined in Minnesota Statutes, section 86B.005.
- (b) Lake Sarah is that body of water designated by the Minnesota Department of Natural Resources as lake #27-191. It is located in: sections 1 and 2, township 118, range 24; and in sections 34 and 35, township 119, range 24, Hennepin County, Minnesota.

915.05. Slow no-wake zone on Lake Sarah. Subdivision 1. No-wake in channel. No person shall operate a watercraft, including aircraft, in excess of slow no-wake speed in the channel separating the northerly and southerly halves of Lake Sarah as delineated by markers, buoys, or other aids to navigation placed by the city. (Amended, Ord. No. 2002-09)

Subd. 2. No-wake at high water level. Whenever the waters of Lake Sarah reach or exceed 981.1 feet above sea level, for a period of three consecutive days or more, as measured by the water level gauge set by the State Department of Natural Resources on Lake Sarah, the city administrator-clerk or designee may, at their discretion, upon notifying the Hennepin county sheriff, establish a slow no-wake zone on those portions of the lake within the city. The no-wake restriction shall become effective upon a date specified by the city administrator-clerk and shall remain in effect until the water level for the lake has receded below 981.1 feet above sea level. Both the implementation and removal of these restrictions must be done in coordination with similar actions by the city of Greenfield. The city administrator-clerk or designee shall notify the public of both the implementation and removal of the no-wake restriction by publishing a notice in the official newspaper, posting the restriction at all public lake access points prior to and during the time the restriction is in place, and posting the restriction at city hall, and by such other means as the administrator-clerk determines to be reasonable. (Added, Ord. No. 2002-09)

Subd. 3. No-wake regulation. No person shall operate a water craft, including aircraft, in excess of slow no-wake speed 24 hours per day when the high water slow no-wake restrictions in subdivision 2 are in effect. Such restrictions shall become effective upon publication in a local daily newspaper as a news item or on a specified date, whichever is later. (Added, Ord. No. 2002-09)

915.07. Notification. The city is responsible for providing adequate notification to the public, which shall include placement of a sign at each public watercraft access outlining essential elements of this section, as well as the placement of necessary buoys and signs.

915.09. Exemption. Enforcement, resource management and emergency personnel, while in the performance of their official duties, are exempt from the provisions of subsection 915.05.

915.11. Penalties. Any person violating this section, upon conviction, is guilty of a misdemeanor and subject to a maximum fine or a maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03.

915.13. Enforcement. The Hennepin County sheriff's department and special deputies appointed and sworn by the sheriff have primary responsibility for enforcing the provisions of this section, but that does not preclude enforcement by other licensed peace officers.

915.15. Authority to regulate water surface use. Pursuant to Minnesota Statutes, sections 459.20, 471.59 and 86B.205, Independence has entered into a joint powers agreement with the city of Medina for the purpose of regulating the surface use of the body of water known as Lake Independence. This section shall be effective after adoption and publication and after adoption of a similar ordinance by Medina. This section shall remain in effect until repealed or until the joint powers agreement is terminated. (Added, Ord. 2006-05)

915.17. Definitions. Subdivision 1. The terms used in this section related to boating, including "slow no-wake," shall have the meanings given to them in Minnesota Statutes, section 86B.005. (Added, Ord. 2006-05)

915.19. Slow no-wake zone on Lake Independence. Subdivision 1. Slow no-wake at high water level. Whenever the waters of Lake Independence reach or exceed 957.8 feet above sea level for a period of three consecutive days or more, as measured by the water level gauge set by the Minnesota department of natural resources on Lake Independence, the city administrator-clerk or designee may, at their discretion, upon notifying the Hennepin county sheriff, establish a slow no-wake zone on those portions of the lake within Independence. No person shall operate a water craft, including aircraft except during landings and take-offs, in excess of slow no-wake speed within 250 feet of the shoreline when the high water slow no-wake restrictions are in effect. Both the implementation and removal of these restrictions must be done in coordination with action by the city of Medina. (Added, Ord. 2006-05)

Subd. 2. Effective date of no-wake regulation. A slow no-wake restriction shall become effective upon the date specified by the city administrator-clerk and shall remain in effect until the water level for the lake has receded below 957.8 feet above sea level for at least three consecutive days. (Added, Ord. 2006-05)

915.21. Notification. The city administrator-clerk shall notify the public of both the implementation and removal of the no-wake restriction by publishing a notice in the city's official newspaper, posting the restriction at all public lake access points within the city prior to and during the time the restriction is in place, posting the restriction at city hall, and by such other means as the city administrator-clerk determines to be reasonable. (Added, Ord. 2006-05)

915.23. Exemption. Enforcement, resource management and emergency personnel, while in the performance of their official duties, are exempt from the provisions of this section. (Added, Ord. 2006-05)

915.25. Penalties. Any person convicted of violating this section shall be guilty of a misdemeanor and shall be subject to a maximum fine or a maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. (Added, Ord. 2006-05)

915.27. Enforcement. The Hennepin county sheriff's department and special deputies appointed and sworn by the sheriff have primary responsibility for enforcing the provisions of this section, but nothing herein shall preclude other licensed peace officers from enforcing this section. (Added, Ord. 2006-05)