

SECTION 400.00 NUISANCES, OFFENSES, AND RESTRICTIONS.

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400. 01 PUBLIC NUISANCE DEFINED.

It shall be unlawful for any person to maintain a public nuisance by his or her act or failure to perform a legal duty, and for purposes of this Section, a public nuisance shall be defined as any of the following: (1) maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or, (2) interfering with, obstructing or rendering dangerous for passage, any street, public right-of-way, or waters used by the public; or, (3) any other act or omission declared by law to be a public nuisance.

400. 02 PUBLIC NUISANCES AFFECTING HEALTH.

The following shall be hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter. This condition may be subject to immediate abatement as defined in this Section.
- B. All ponds or pools of stagnant water, except private or municipal ponds and the like that are maintained for the purpose of storm water retention or treatment.
- C. Carcasses of animals not buried or destroyed within 24 hours after death. This condition may be subject to immediate abatement as defined in this Section.
- D. Accumulations of litter, offal, dirt, yard cleanings, manure, rubbish, garbage, tin cans, bottles, junk, debris, decayed food or vegetable matter, waste, soil, sand, stones, paper, or other materials which are kept so as to result in offensive odors, unsightly conditions, dangerous conditions, or excessive manifestation of insects or rodents to the discomfort of adjacent property owners or the public, except as expressly authorized by statute or ordinance. This condition may be subject to immediate abatement as defined in this Section.
- E. Garbage cans which are not insect-tight, rodent free, or which are accessible to animals.
- F. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.
- G. Dense smoke, dust, noxious fumes, gas or soot, or cinders, in unreasonable quantities.
- H. All diseased animals running at large. This condition may be subject to immediate abatement as defined in this Section.

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- I. Any offensive trade or business as defined by statute for which a license has not been issued by the City of Belle Plaine.
  - J. All noxious weeds and/or rank growth of vegetation. This condition may be subject to immediate abatement as defined in this Section.
  - K. Throwing, dumping, or depositing on private or public property: dead animals, manure, garbage, waste, decaying matter, ground, sand, stones, ashes, rubbish, tin cans, bottles, paper or other materials of any kind or the dumping of the contents of any cesspool, septic tank, or garbage can except at places authorized by law.
  - L. Installing or allowing the installation of any equipment, device, appliance, apparatus, or any part thereof, which is installed, affixed, or situated outdoors or in structures not normally occupied by humans for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system.
  - M. Fallen trees, fallen tree limbs, dead trees, and dead tree limbs which in the opinion of the Superintendent of Public Works or Designee constitute a health, safety, or fire hazard or threaten the public welfare.
  - N. Trees on public or private property which the Superintendent of Public Works or Designee finds to have structural defects in the roots, trunk, stem, or branches that may cause the tree or a part of the tree to fail, and such failure may cause property damage or personal injury.
  - O. Any diseased or unsound trees growing, standing, or stored upon any lot or parcel of land in the City.
  - P. Transporting of diseased-bearing wood without having obtained permission from the Superintendent of Public Works or Designee, unless the disease-bearing wood is being transported directly to a sanitary landfill or other lawful place of disposition. This condition may be subject to immediate abatement as defined in this Section.
  - Q. Failing to take appropriate measures to contain or allowing any soil or other debris to wash or erode from private property or construction sites onto the public street, drainage system, adjacent property, ponds, wetlands, ravines, or waterways. This condition may be subject to immediate abatement as defined in this Section.
  - R. Hazardous buildings as defined by Minnesota Statutes Chapter 463, as may be amended.
  - S. Selling of food items without proper licenses/permits. This condition may be subject to immediate abatement as defined in this Section.

#### 400.03 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following shall be declared to be nuisances affecting public peace and safety;

- A. Obstruction of an intersection by trees, hedges, signs, billboards, or other obstructions placed or located within a sight triangle. A sight triangle shall be defined as a triangle formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-

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way lines at a distance along each line of thirty (30) feet from their point of intersection. Conformance shall not require the destruction or removal of any building.

- B. Causing or permitting wires or limbs of trees to hang lower than eight (8) feet to the surface of a sidewalk or street or otherwise create a danger to pedestrians or vehicles.
- C. All unnecessary noises and annoying vibrations.
- D. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under any conditions as shall be permitted by this Code or other applicable law. This condition may be subject to immediate abatement as defined in this Section.
- E. Radio or television antennae erected or maintained in a dangerous manner;
- F. Any use of property abutting, on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks. This condition may be subject to immediate abatement as defined in this Section.
- G. All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger the public safety, or not constructed and maintained as provided by ordinance.
- H. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk. This condition may be subject to immediate abatement as defined in this Section.
- I. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way.
- J. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- K. Wastewater cast upon or permitted to run upon streets or other public property. This condition may be subject to immediate abatement as defined in this Section.
- L. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of insects, rats, mice, snakes, or vermin, or to fire, health or safety hazards from such accumulation, or from the rank growth of vegetation among the items so accumulated.
- M. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any person coming on the premises where it is located.
- N. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials. This condition may be subject to immediate abatement as defined in this Section.
- O. The placing or throwing on any street, sidewalk or other public property of items including, but not limited to, glass, tacks, nails, bottles, or other substance which may injure any person

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- or animal or damage any pneumatic tire when passing over the substance.
- P. The depositing of garbage or refuse on a public right-of-way or an adjacent private property.
  - Q. Placing entrance culverts or doing any act which may alter or affect the drainage of public streets or alleys or the surface or grade of public streets, alleys, or public sidewalks except as provided under a proper and valid permit.
  - R. All snow and ice not removed from the public sidewalks within 24 hours after the snow or other precipitation causing the condition has ceased to fall. This condition may be subject to immediate abatement as defined in this Section.
  - S. The keeping of horses, cattle, swine, sheep, goats, rabbits, dogs, or other animals or fowl so as to result in offensive odors to the discomfort of adjacent property owners, or allowing any animal or fowl to run at large which means off the premises of the owner and not under control.
  - T. All explosives, inflammable liquids, and other dangerous substances or materials stored or accumulated in any matter or in any amount other than that provided by law or code.
  - U. Making repairs to motor vehicles or tires in public streets or alleys, excepting only emergency repairs which will not unduly impede or interfere with traffic.
  - V. Throwing, placing, depositing, or burning leaves, trash, lawn clippings, seeds, grass, or other material in the streets, alleys, or street gutters.
  - W. Erecting, painting, or placing of an unauthorized sign of any type in streets, boulevards, or alleys or on sidewalks except for those authorized under permit or code or placed by governmental jurisdictions.
  - X. The deposit of snow or ice, removed from private property, onto a public street, alley, or sidewalk.
  - Y. All other conditions, acts, or things which are liable to cause injury to persons or property.

#### 400. 04 LIGHT NUISANCES.

The following regulations shall apply to the use of exterior lights and light control devices. Lenses, deflectors, shields, louvers, and prismatic control devices may be used so as to eliminate nuisances lighting. It shall be unlawful and a public nuisance for any person to use exterior lights and light control devices as listed below:

- A. Exterior lighting arranged or designed so as to create direct, uninterrupted, unshielded viewing angles of the illumination source within the principal structure of a contiguous property.
- B. Exterior lighting arranged or designed so as to create direct, uninterrupted, unshielded viewing angles of the illumination source by pedestrian or vehicular traffic in a public right of way.

- C. Any light or combination of lights which cast light on a public street exceeding one (1) foot candle (meter reading) as measured from the center line of said street.
- D. Any light or combination of lights which cast light on residential property exceeding four (4) foot candles (meter reading) as measured from said property.

400.05. PUBLIC NUISANCES AFFECTING WELFARE AND VISUAL ENVIRONMENT.

It shall be unlawful and a public nuisance for any person having control over any property in the City to permit or maintain on such property:

- A. Outside storage of junk vehicles. Except that one (1) vehicle may be stored or parked on the private property of the owner for the purposes of making repairs for a period not to exceed fourteen (14) days. Junk automobiles are defined as any motor vehicle or part of a motor vehicle which is stored in the open that is either: (1) Unusable or inoperable because of lack of or defects in component parts, (2) Unusable or inoperable because of damage from collisions, deterioration, alterations, or other factors, (3) Reasonably beyond repair and, therefore, not intended for future use as a motor vehicle, or (4) being retained on the property for use for salvageable parts.
- B. Outside storage of unlicensed motor vehicles or those with expired license tabs.
- C. Outside storage of discarded or disused machinery or wrecked or inoperable recreational vehicles, boats, recreational equipment, powersport vehicles or equipment, lawn mowers, snow blowers, trailers, and similar items whether items are intact or reduced to portions thereof.
- D. Outside storage, in aggregate, of more than three (3) of the following items on one property at any one time: recreational vehicles (as defined in Section 1107.08 of the Code as may be amended and pertaining to outside, exterior storage), lawn mowers, snow blowers, and similar items.
- E. Outside storage of any other materials or equipment which may cause blight or an unsightly neighborhood condition.
- F. Parking of motor vehicles, sport or recreational vehicles, sport or recreational equipment, trailers, and similar items on or over grass or dirt surfaces.
- G. Any grass or weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land in the City of Belle Plaine to a height greater than eight (8) inches, except as defined below. This condition may be subject to immediate abatement as defined in this Section.
  - 1. Non-noxious weeds and grass in wetland areas, including wetland buffers.
  - 2. Non-noxious weeds, grasses, and herbaceous vegetation that are within fifty (50) feet of designated stormwater ponds (or their required buffers whichever are greater), natural or altered creeks, rivers, streams, bluffs, and ravines.
  - 3. Agricultural fields and crops that are planted, maintained, and harvested according to normal farming practices.

4. Temporary erosion control grasses.
5. Native prairie and/or natural landscapes are subject to the following limitations:
  - A. Native prairie and/or natural landscapes are planned, intentional, maintained, and designated areas where native plants are being or have been planted.
  - B. Native plants are grasses, wildflowers, forbs, ferns, and shrubs that are plant species native to or naturalized to the state of Minnesota, excluding prohibited exotic species, as defined by Minnesota Statutes Chapter 84D. Native plants do not include weeds.
  - C. Native prairie and/or natural landscapes include areas illustrated on official landscape plans which are required under the development review process, as approved by the City.
  - D. Native prairie and natural areas within a distinct, defined landscape area on a single or two-family residential parcel are allowed subject to a landscape plan being drafted, submitted, and approved administratively by the City. Said landscape plan shall at a minimum illustrate areas proposed for native plantings and/or natural landscapes, species proposed for planting, proposed maintenance of the area, and proposed planting border/edging. When drafting landscape plans, applicants are encouraged to consult with resource providers, including but not limited to, Scott County Soil and Water Conservation District Representatives and persons with specific, demonstrated knowledge of native plantings and natural landscapes. Said landscape plans are subject to the following limitations:
    1. The native plantings and/or natural landscaped areas must be located on private property.
    2. Native planting and/or natural landscaped areas shall occupy no more than fifty percent of the pervious surface area of the parcel excluding natural wooded areas, bluffs, wetlands, water bodies, ravines, and rain gardens.
    3. Native planting and/or natural landscaped areas shall be set back from property lines by at least five feet. The setback is not required where:
      - a. The defined landscape area abuts a similar private or public landscape area,
      - b. The defined landscape area abuts a wetland, pond, bluff, ravine, or waterway,
      - c. A fully opaque fence at least four feet in height is installed along the lot line adjoining the planned landscape area.
    4. Native planting and/or natural landscapes must be maintained so as to not include unintended vegetation.

5. Native planting and/or natural landscapes, after being established, must be maintained at least once per year through mowing or, if appropriate permits are obtained, burning.
6. Native planting and/or natural landscapes shall not include turf-grass lawns left unattended for the purpose of returning to a natural state.
6. Grass and non-noxious weed vegetation growing in areas designated by the City as a natural preserve or park.
7. Grass, non-noxious weed vegetation and ornamental grasses growing on natural or altered slopes that are steeper than 2:1.
8. Rural sections or unmanicured sections of public right-of-way.

#### 400.06 ABATEMENT OF PUBLIC NUISANCES.

Subd. 1. This section shall apply to the abatement of all public nuisances, except that the City may use any other abatement procedure provided by law or pursue immediate abatement as provided herein.

Subd. 2. Enforcement. The following officials are authorized to enforce provisions of this Chapter: the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or their designee.

Subd. 3. Inspections. The City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or their designee shall cause to be inspected all public and private places within the City which might contain a public nuisance as defined in this section as often as practical to determine whether the public nuisances exist.

Subd. 4. Entry on public and private places. If a property owner refuses right of entry, the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or their designee, shall obtain a search warrant or other appropriate court order. In cases of "emergency," defined as conditions or circumstances that pose a threat of harm to persons or property to the extent that abatement is immediately necessary, the court action shall not be required.

Subd. 5. Order to abate.

- A. Upon a determination by the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City that a public nuisance exists on any public or private property designated City representative shall order the public nuisance to be abated in a manner consistent with this code. The affected property owner shall be notified in person or by postal mail that the nuisance must be abated within a reasonable time from the date of the service of the notice.
- B. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises.

- C. The order notice shall state the specific nature of the violation and the requirements for compliance.
- D. The order notice shall inform the property owner that the property owner may, within ten (10) days of the date of the order, request a hearing before the Planning Commission and the order notice shall set forth the procedure by which the hearing may be requested.
- E. The order notice shall further state that failure to abate the nuisance or to request a hearing within the applicable time period will result in issuance of a citation, or other abatement procedure whereby cost of the abatement shall be assessed against the property.

Subd. 6. Upon expiration of the time required by the order notice, the designated City representative may issue a citation, abate, or cause to abate the nuisance, unless a request for hearing has been timely filed.

Subd. 7. Court order. If the Council determines it is in the best interests of the City to immediately abate the nuisance at the City's expense, the Council shall by motion direct City staff to obtain an appropriate court order approving entry onto the property and directing the abatement of the nuisance. The City may ask the court to approve the City's cost of abatement and order that the cost be spread on the property benefitted as an assessment and certified to the County Auditor for collection.

Subd. 8. Immediate abatement. Nothing in this Section shall prevent the City, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety, or from immediately abating any of the conditions described in herein, if the City determines, in its discretion, that the public interest would be served by immediate abatement.

Subd. 9. Hearing.

A. Application and notification. Any property owner who feels aggrieved by any order issued pursuant to this Section by the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City may request a hearing before the City Council. The request shall be filed in writing with the City Administrator within ten (10) days after the date of the service of the notice by a City agent. A notice of the time, place and purpose of the hearing shall be published in the City's official newspaper at least ten days prior to the date of the hearing. A copy of the notice shall be mailed at least ten days before the day of the hearing to the applicant and to each owner of property abutting the subject property.

B. Hearing procedure. Both the property owner and representatives for the City may appear at the hearing and may call the witnesses and present the evidence as deemed to be relevant. Within ten business days after the hearing, the Council shall affirm, repeal or modify the order of the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City. The Council order shall be accompanied by written findings of fact.

Subd. 10. Record of costs. The City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City



shall keep a record of the costs of abatement and shall report to the City Administrator or designee all work done for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each.

Subd. 11. Assessment procedure. On or before November 15 of each year, the City Administrator or designee shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges, or any portion thereof, against the property involved as a special assessment for certification to the County Auditor for collection beginning the following year, along with current taxes. The assessment shall be payable in no more than ten equal annual installments pursuant to M.S. Ch. 429, as it may be amended from time to time.

Subd. 12. Interference prohibited. It is a misdemeanor for any person to prevent, delay or interfere with City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City while they are engaged in the performance of duty set forth in this Section.

#### 400.07 ENFORCEMENT.

Subd. 1. Failure to remove or correct any nuisance within the time prescribed in the order notice constitutes a violation of this Section. Violations are subject to any combination of the remedies to cure provided for in this Section.

Subd. 2. Stop Work Orders. The City may issue a stop work order(s) to assure compliance with permits and approvals or when a permit or approval is required or as otherwise authorized by applicable law.

Subd. 3. Abatement. The City may pursue an abatement action concerning nuisance(s) and seek penalties and reimbursement of costs.

Subd. 4. Civil remedies. This Section may be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd. 5. Criminal penalties. This Section may be enforced through criminal citation. Every person who violates any other provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$1,000.00 or imprisonment for a term of not to exceed 90 days, or both. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

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SECTION 401.00 REFUSE AND LITTER.

- 401.01 Definitions.
- 401.02 Litter in Public Places.
- 401.03 Litter on Gutters and Sidewalks Prohibited.
- 401.04 Litter from Vehicles.
- 401.05 Litter in Parks, Lakes, and Streams.
- 401.06 Litter on Private Property.
- 401.07 Burying of Refuse: Composting.
- 401.08 Exceptions in Proper Zones.
- 401.09 Clearing of Litter from Private Property by the City.
- 401.10 License Required for Refuse Hauling.
- 401.11 Disposal Required.
- 401.12 Compost Collection.
- 401.13 Containers.
- 401.14 Collection Vehicles.
- 401.15 Violations.

401.01 DEFINITIONS.

The following terms as used in this chapter shall have the meanings stated:

- A. Authorized Private Receptacle. The term "Authorized Private Receptacle" shall mean a litter storage and collection receptacle as required and authorized by provisions of the City Code and regulations as to the City refuse collection system.
- B. Garbage. The term "Garbage" shall mean *putrescible animal, vegetable, and other organic wastes resulting from handling, preparation, cooking and consumption of food.*
- C. Litter. The term "Litter" shall mean garbage, refuse and rubbish as defined herein, in this Section, and all other waste material which, if thrown, deposited, maintained or stored as prohibited in this Chapter, tends to create a danger to the public health, safety and welfare.
- D. Park. The term "Park" shall mean a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.
- E. Public Place. The term "Public Place" shall mean any and all streets or other public ways and any and all public parks, ravines, spaces, grounds and buildings.
- F. Recyclables. "Recyclables" shall include paper, plastic, tin cans, aluminum, motor oil, glass, and other metal goods.
- G. Refuse. The term "Refuse" shall mean all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, unlicensed or inoperative vehicles, and solid commercial and industrial wastes.
- H. Rubbish. The term "Rubbish" shall mean non-putrescible solid waste consisting of both combustible and non-combustible wastes such as paper, wrappings, cigarettes,

cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, scrap metal, scrap lumber, used vehicle parts and similar materials.

I. Vehicle. The term "vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including but not limited to, devices such as automobiles, trucks, bicycles, motorcycles, snowmobiles, trailers of any kind, and similar forms of conveyance.

#### 401.02 LITTER IN PUBLIC PLACES.

It shall be unlawful for any person to throw or deposit litter in or upon any street or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City landfills. Persons placing litter in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street or other public place or upon private property.

#### 401.03 LITTER ON GUTTERS AND SIDEWALKS PROHIBITED.

It shall be unlawful for any person to sweep into or deposit in any gutter, street or other public place within the City any litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property, including commercial or industrial property, shall keep the sidewalk or boulevard in front of their premises free of litter at all times.

#### 401.04 LITTER FROM VEHICLES.

It shall be unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the City, or upon private property. No person shall drive or move any truck or other vehicle within the City unless the vehicle is so constructed or loaded as to prevent any load the contents or litter from being, blown or deposited upon any street, or other public place, or upon private property. Nor shall any person drive or move a vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

#### 401.05 LITTER IN PARKS, LAKES, AND STREAMS.

It shall be unlawful for any person to throw or deposit litter in any park, lake or stream within the City except in public receptacles and in such a manner that the litter shall be prevented from being carried or deposited by the elements upon any part of park, lake, or stream, or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park, lake or stream by the person responsible for its presence and properly disposed of elsewhere.

#### 401.06 LITTER ON PRIVATE PROPERTY.

It shall be unlawful for any person to throw, deposit, maintain, or store outside any litter on any private property within the City, whether owned by such person or not, and the owner and the person in control of any such private property shall at all times maintain the premises free of litter. Provided, however, that this Subdivision shall not prohibit the storage of litter in authorized private receptacles for collection.

Subd. 1. Unauthorized Accumulation. Any unauthorized accumulation of refuse on any premises shall be a nuisance and prohibited.

#### 401.07 BURYING OF REFUSE: COMPOSTING.

No person shall bury any litter in the City except in an approved sanitary landfill; but leaves, grass clippings and easily biodegradable, non-poisonous garbage may be composted on the premises where the refuse has been accumulated. Garbage may be composted only in a rodent-proof structure and in an otherwise sanitary manner and after the Council or its appointed health officer gives its approval to the composting after the Council or its appointed health officer finds that the composting shall be done in accordance with these the standards set forth in this Chapter.

#### 401.08 EXCEPTIONS IN PROPER ZONES.

This Section shall not prohibit the lawful keeping of vehicles defined in this Section as "refuse" on private property under the following circumstances:

- A. On property duly licensed as a junkyard in an appropriate zone under the Zoning Chapter of this Code;
- B. When stored inside buildings, provided the building and land use complies with all applicable laws, regulations and provisions of this Code regulating the special hazards and usage thereof; or,
- C. Temporary outside storage, not exceeding thirty (30) days, in appropriate commercial or industrial zones, under the Zoning Ordinance while awaiting repair work thereon.

#### 401.09 CLEARING OF LITTER FROM PRIVATE PROPERTY BY THE CITY.

Subd. 1. Notice. The Council or its duly authorized agent, shall be hereby authorized and empowered to notify the owner of any private property within the City, or the agent of the owner, to properly dispose of litter located on the owner's property which shall be prohibited by this Section. The occupier of any property shall be deemed the agent of the property owner for purposes of this Section. Notice shall be by Registered Mail or personal service in the same manner as civil process in District Court, and if by mail, shall be addressed to the owner or the owner's agent at his or her last known address. If sent by mail, and returned because of inability to make delivery thereof, the City Clerk/Treasurer shall make a reasonable attempt to deliver the notice by personal service. The City shall not be required to furnish notice by personal service outside the State of Minnesota.

Subd. 2. City Removal. Upon failure, neglect or refusal of any owner or agent notified to properly dispose of litter as prohibited by this Section within thirty (30) days after receipt of written notice cited in Subd. 1, or within (30) thirty days after the date the same notice is returned to the City because of inability to make delivery or personal service thereof, the Council or its duly authorized agent shall be hereby authorized and empowered to order the removal and disposal of such the litter.

Subd. 3. Right to Hearing. At any time prior to City removal of litter from private property, the owner, or the agent of the owner, may submit a written request for a hearing before the Council to show cause why the litter should not be removed from the property as evidence

bearing upon the question, and thereafter make findings for or against the proposed removal. If owner prevails, all proceedings under this Section arising from the incident shall terminate and be dismissed by the City. If a violation of this Section is found by the Council, the removal shall be ordered immediately pursuant to Subdivision 2 above.

Subd. 4. Cost Certified to Taxes. When the City has effected the removal of the litter, or has paid for its removal, the actual cost thereof, plus accrued interest at the market rate from the date of the completion of the work, if not paid by the owner prior to thirty (30) days following such the removal, shall be charged as a lien upon the real estate affected and the same certified by the Clerk-Treasurer to the county auditor as a special assessment for collection with regular municipal taxes in the year following the certification. The assessment shall constitute a lien against the real estate and shall be collected in the manner provided by law for the collection of special assessments. The certified assessment shall constitute prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily completed.

#### 401.10 LICENSE REQUIRED FOR REFUSE HAULERS.

Residential refuse haulers shall obtain a Refuse Hauling License from the City Offices as required in Chapter 3, Section 313.

#### 401.11 DISPOSAL REQUIRED.

Every person shall, in a sanitary manner, store and dispose of refuse that may accumulate upon property owned or occupied by him or her in accordance with the terms of this Section. Refuse shall be collected or otherwise disposed of at least once a week.

#### 401.12 COMPOST COLLECTION.

The licensed refuse haulers shall provide collection of compost items according to Chapter 3, Section 313.00.

#### 401.13 CONTAINERS.

Subd. 1. General Requirement. Every householder, occupant, or owner of any residence and any restaurant, industrial establishment, or commercial establishment, shall provide on the premises one or more containers to receive and contain all refuse which may accumulate between collection. All normal accumulations of refuse shall be deposited in such the containers. Leaves, trimmings from shrubs, grass clippings, shavings, excelsior, and other rubbish of similar volume and weight may be stored in closed containers not meeting the requirements of Subdivision 2.

Subd. 2. Container Requirements. Each container shall be water-tight, shall be impervious to insects and rodents, shall be fireproof, and shall not exceed 32 gallons in capacity, except that any commercial or business establishment having refuse volume exceeding two cubic yards per week shall provide bulk or box-type refuse storage containers of a type approved by the Council or its health officer. Containers shall be maintained in good sanitary condition. Any container not conforming to the requirements of this Chapter or having ragged or sharp edges or any other

defect likely to hamper or injure the person collecting the contents shall be promptly replaced after notice by the City.

Subd. 3. Placement. Residential refuse containers shall be placed at curbside, or the front property line, for pick up. Refuse containers shall be removed by 8:00 p.m. on the day of collection.

Subd. 4. Exceptions. Residences located in the downtown commercial district identified as Blocks 91, 92, 103, and 104, are exempt from curbside, or front property line, refuse pick up and shall be allowed refuse pick up in the alley ways

Subd. 5. Use of Containers. Refuse shall be drained of liquid, and household garbage shall be wrapped before being deposited in a container. Highly inflammable or explosive material shall not be placed in containers.

#### 401.14 COLLECTION VEHICLES.

Every refuse collection vehicle operating within the City of Belle Plaine shall be lettered on the outside so as to identify the owner thereof. Every vehicle used for hauling garbage shall be covered, leak-proof, durable and of easily cleanable construction. Every vehicle used for hauling refuse shall be sufficiently air-tight, and so used as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

Subd. 1. Unused Container. It shall be unlawful for any person, being the owner or in possession or in control thereof, to permit an unused refrigerator, icebox, or other container, sufficiently large enough to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children without having removed the doors, lids, hinges or latches.

Subd. 2. Abandoned Motor Vehicle. It shall be unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such the property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169. For the purpose of this Section, an "abandoned motor vehicle" shall be defined as in the Section of the Code relating to disposal of abandoned motor vehicles.

Subd. 3. Furniture, Household Furnishings and Appliances. It shall be unlawful to store any furniture, household furnishings or appliances or parts or components thereof on any property, public or private, unless housed within a building, and any violation shall be hereby declared to be a nuisance.

#### 401.15 VIOLATIONS.

Any violation of the terms of this Section shall be just cause for the City to remove the refuse or garbage and assess all costs for removal according to the terms and manner prescribed in this Code, or, at the discretion of the City Attorney, prosecuted as a petty misdemeanor.

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SECTION 402.00 OFFENSES AND RESTRICTIONS.

402.01 Disorderly Conduct.

402.02 Distribution of Materials Harmful to Minors.

402.01 DISORDERLY CONDUCT.

Whoever does any of the following in a public or private place, knowing or having reasonable grounds to know, that it shall or may tend to alarm, anger or disturb others, or provoke any assault, or breach of peace, shall be guilty of disorderly conduct:

- A. Engages in brawling or fighting; or
- B. Disturbs an assembly or meeting, not unlawful in its nature; or
- C. Engages in offensive, obscene, or abusive language, or in boisterous and noisy conduct tending reasonably to arouse, alarm, anger, or cause resentment in another.

402.02 DISTRIBUTION OF MATERIALS HARMFUL TO MINORS.

This Section shall be in accordance with State Statutes 617.292 – 617.296.

Subd.1. Definitions. For purposes of this Section, the following, words shall have the following meanings:

Minor. "Minor" shall mean-s any person under the age of eighteen (18) years.

Nudity. "Nudity" shall means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Sexual Conduct. "Sexual Conduct" shall mean acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals or physical contact with a person's pubic area, or buttocks, or if such a person be a female, her breast.

Sexual Excitement. "Sexual Excitement" shall mean-s the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Sadomasochistic Abuse. "Sadomasochistic Abuse" shall mean flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Harmful to Minors. "Harmful to minors" shall mean that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

- A. Predominantly appeals to the prudent, shameful or morbid interest of minors, and

B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and

C. Is utterly without redeeming social importance for minors.

"Knowingly" shall mean have general knowledge of, or reason to know, or a belief or ground which warrants further inspection or inquiry or both;

A. The character and content of any material which is reasonably susceptible of examination by the defendant, and

B. The age of the minor, provided however that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such the minor.

Subd. 2 Prohibition of Sale or Loan. It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or masochistic abuse and which is harmful to minors, or

B. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording, which contains any matter enumerated in this Subsection, or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse which taken as a whole, is harmful to minors.

Subd. 3 Unlawful Exhibition. It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor, unless accompanied by a parent or guardian, or knowingly sell to a minor, unless accompanied by a parent or guardian, an admission ticket or pass or knowingly to admit a minor, unless accompanied by a parent or guardian, for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.

Subd. 4 Unlawful Public View. It shall be unlawful for any person knowingly to openly exhibit, show, display, demonstrate, or otherwise allow to be exposed to public view in any public commercial establishment where minors are allowed or permitted to enter for the purpose of doing business in the commercial establishment for profit:

A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, or

B. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in this Subsection or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse which taken as a whole, is harmful to minors,



unless the matters enumerated in this Subsections shall be kept in an "adults only" area, the contents of which is protected from the view or person of a minor.

Subd. 5 Exemptions. The following are exempt from criminal or other action hereunder:

A. Recognized and established schools, churches, museums, medical clinics and physicians, hospitals, public libraries, governmental agencies, or quasi governmental sponsored organization, and persons acting in their capacity as employees or agents of the organizations. For the purpose of this Section "recognized and established" shall mean an organization or agency having a full time facility and diversified curriculum in the case of a school, a church, a licensed physician or psychiatrist or clinic of licensed physicians or psychiatrist; and in all other exempt organizations shall refer only to income tax exempted organizations which are supported in whole or in part by tax funds or which receive at least one-third (1/3) of their support from publicly donated funds.

B. Individuals in a parental relationship with the minor.

C. Motion picture machine operators, stage hands, or other theater employees such as cashiers, door operators, ushers and concession employees, if such person or persons have no financial interest in the entertainment presented other than the salary or wage, or in any theater or place where the employee has no financial interest when his or her services are obtained solely for salary or wage; provided, that the employee shall be under the direct supervision of a theater manager who shall be a resident of this State and who is not exempt from action.

Subd. 6. Severability. The various provisions of this Part shall be severable, and if any part or provision shall be held invalid, it shall not be held to invalidate any other provision thereof.

Subd. 7. Penalty. Whoever violates any provisions of this Section shall be guilty of a misdemeanor, and each day of violation shall be considered a separate offense, and a violation of this Section shall be grounds for revocation or suspension of any and all licenses held at such premises.

SECTION 403.00 WEAPONS.

- 403.01 Acts Prohibited.
- 403.02 Discharge of Firearms and Explosives.
- 403.03 Exceptions.
- 403.04 Offense by Parents and Guardians.
- 403.05 Use of Bow and Arrow.

403.01 ACTS PROHIBITED.

Acts Prohibited. It shall be unlawful any person to:

- A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another, or
- B. Intentionally point a gun of any individual, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or
- C. Manufacture or sell for any unlawful purpose any weapon known as a slingshot or sand club; or
- D. Manufacture, transfer or possess metal knuckles or switch blade knife opening automatically; or
- E. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or
- F. Sell or have in his or her possession any device designed to silence or muffle the discharge of a firearm; or
- G. Permit, as a parent or guardian, any child under fourteen years of age to handle or use, outside of the parent's or guardian's presence a firearm or air gun of any kind, or any ammunition or explosive; or
- H. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his or her parent or guardian or of a police officer.

403.02 DISCHARGE OF FIREARM AND EXPLOSIVES.

It shall be unlawful for any person to fire or discharge any cannon, gun, pistol, or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a B-B -gun, or sling shot.

403.03 EXCEPTIONS.

Section 403.02 shall not apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a police officer in the discharge of his or her duties, or to a person in the lawful defense of his or her person or family. This Section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

403.04 OFFENSE BY PARENTS AND GUARDIANS.

It shall be unlawful for any parent or guardian of any person under the age of eighteen (18) years of age knowingly to permit such person to violate any provisions of this Section.

403.05 USE OF BOW AND ARROW.

It shall be unlawful for any person to shoot a bow and arrow except for the following:

- A. In the physical education program in a school supervised by a member of its faculty, a community-wide supervised class.
- B. An event specifically authorized by the Council.
- C. At a bow and arrow range authorized by the Council.
- D. On private property located north of the Union Pacific Railroad property subject to the following conditions:
  - a. Allowed only during the hunting season for bow and arrow, as authorized by State of Minnesota.
  - b. All other regulations established by the Minnesota Department of Natural Resources regarding hours, limits, zones, and so forth, shall be adhered to except that no shooting or discharge of any bow or arrow shall be within five hundred (500) feet of any residential or commercial structure, public street, roadways, sidewalk, or trail.
  - c. Written permission shall be granted by the property owner.
  - d. Obtain a permit on application forms made available from the Belle Plaine Police Department.
  - e. Establish signage stating “No Trespassing – Private Property” at reasonable intervals and all points of entry and exit.
  - f. Hunters attempting to recover wounded game must inform the landowner prior to entering land.
  - g. Any constructed tree stand shall be at least five (5) above ground level.

(Ord.15-06, Section 403.05, Adopted August 17, 2015).

SECTION 404.00 INTERFERENCE WITH AMBULANCE SERVICE.

404.01 Interference with Ambulance Service

404.01 INTERFERENCE WITH AMBULANCE SERVICE.

It shall be unlawful for any person to give, or make or cause to be made a call for ambulance service without probable cause or to neglect to obey any reasonable order of a driver or attendants at an ambulance call or to interfere with the ambulance service's discharge of its duties.

SECTION 405.00 POSTING AND DISTRIBUTING PRINTED MATTER.

405.01 Posting and Distributing Printed Matter.

Subd. 1. Public Property. It shall be unlawful for any person to post or leave printed matter upon streets or other public property, including, utility poles.

Subd. 2. Property of Another. It shall be unlawful for any person to post , attach, or leave upon on the sidewalk abutting the minor's residence or the residence of a next-door neighbor without their permission.

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SECTION 406.00 RULES AND REGULATIONS GOVERNING PUBLIC PARKS.

406.01 Unlawful Acts.

406.01 UNLAWFUL ACTS.

It shall be a petty misdemeanor to violate rules and regulations as are conspicuously sign-posted in such the parks. In addition to the foregoing, it shall be a petty misdemeanor for any person, in any parks or other public lands, to disobey any of the following:

A. No person shall operate a motor vehicle in any park or driveway at a speed in excess of 15 miles per hour.

B. No person other than park personnel shall park any motor vehicle in any place in public parks except in designated areas, and no person shall operate any motor vehicle in any place except on established roads or driveways.

C. No person shall be or remain in any park between the hours of one-half hour after sunset and one-half hour before sunrise except those, who without delay, are traveling through the parks on the established walks, paths, or streets. Provided, that in cases where activities that have been scheduled by the proper City authorities or supervised by responsible adults, run beyond the park curfew hour, this Section shall not apply to the participants until thirty minutes after the scheduled activity has been completed. Activities may also be limited by the posting of designated hours.

D. Overnight camping shall be permitted only in the areas designated by the Council for such activities.

E. No fires shall be lighted or made in the parks excepting in places and containers intended for such purposes. This Section does not apply to City employees engaged in cleaning or maintaining an area.

F. No person or persons shall discharge any fireworks or firearms in parks without first securing, specific approval from the Council and in the case of fireworks, a permit from the Fire Marshall.

G. No person shall cast, deposit, throw, lay, place or scatter any lighted or unlighted cigars or cigarettes, chewing gum, glass, bottles, cans, nails, wire, crockery or other sharp or cutting substances, or any refuse matter of any kind anywhere, excepting in refuse containers provided for this purpose. Charcoal coals and ashes shall be deposited only in containers designated for this purpose.

H. Swimming, and bathing shall be permitted only in designated areas. No person shall use scuba or other diving equipment without a permit from the Recreation Director of the City pool.

I. No person shall play any game of baseball, tackle football, golf, or other games dangerous to the welfare of others excepting in areas provided for the game, and then only within the limits of reasonable safety.

- J. No person shall write upon or mark or destroy or deface in any improper way any property or thing pertaining to or in the parks nor paste or affix or inscribe any handbill or poster on any structure or property within the parks, nor on any road or roadway adjacent to the same.
- K. No pets shall be allowed in any park except when they are under control on leash or in some other manner. No person shall ride a horse or other animal except on designated trails, paths and areas. No one shall disturb or interfere with any wild life.
- L. No person or persons other than City or Recreational personnel shall be permitted to sell any article or product without a permit granted by the Council.
- M. No person shall commit any nuisance or any offense against decency or public morals.
- N. No one shall ride on bicycles or other vehicles on tennis courts; nor use these courts for any other purpose than playing tennis without specific permission from the Recreation personnel.
- O. Ice hockey shall only be permitted on rinks designated for hockey. No hockey sticks or pucks shall be allowed on any other park rinks. No vehicles of any kind excepting those used by City personnel shall be allowed on any skating, area.
- P. No person shall be allowed to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal or bird in any park or public place or within 100 feet thereof.
- Q. No person shall remove or have in possession any nest, eggs, or young of any animal or bird in the park, or found nesting within 100 feet of any park or public land.
- R. No person shall travel in or upon any motor vehicle except upon properly designated roadways or paths.
- S. No person shall swim or wade in, or travel in any boat or other floatation device at any park or pool except during posted hours.
- T. No person shall give, offer, feed or attempt to give or feed, any animal or bird in any park or public land, or within 100 feet thereof, any harmful or noxious substance.
- U. No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

SECTION 407.00 JUVENILE CURFEW.

- 407.01 Findings and Purpose.
- 407.02 Definitions.
- 407.03 Prohibited Acts.
- 407.04 Defenses.
- 407.05 Penalty.

407.01 FINDINGS AND PURPOSE.

- A. In recent years, there has been a significant increase in juvenile victimization and crime. At the same time, the crimes committed by and against juveniles have become more violent. A significant percentage of juvenile crime occurs during curfew hours. This ordinance sets a Scott County-wide, nighttime curfew for juveniles. This ordinance is adopted pursuant to Minnesota Statutes 145A.05, Subd. 7 a (1995).
- B. Because of their lack of maturity and experience, juveniles are particularly susceptible to becoming victims of older perpetrators. The younger a person is, the more likely he or she is to be a victim of crime.
- C. While parents have the primary responsibility to provide for the safety and welfare of juveniles, Scott County also has a substantial interest in the safety and welfare of juveniles. Moreover, Scott County has an interest in preventing juvenile crime, promoting parental supervision, and providing for the well being of the general public.
- D. A county-wide curfew will reduce juvenile victimization and crime and will advance public safety, health, and general welfare.

407.02 DEFINITIONS.

- A. "Juvenile" means a person under the age of eighteen (18). The term does not include persons under eighteen (18) who are married or have been legally emancipated.
- B. "Parents" means birth parents, adoptive parents, and stepparents.
- C. "Guardian" means an adult appointed pursuant to Minnesota Statute 525.6155 or 525.6165 who has the powers and responsibilities of a parent as defined by Minnesota Statute 525.619.
- D. "Responsible adult" means a person over the age of eighteen (18) specifically authorized by law or by a parent or guardian to have custody and control of a juvenile.



E. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

F. "Emergency" means a circumstance or combination of circumstances requiring immediate action to prevent property damage, serious bodily injury or loss of life.

G. "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or Impairment of the function of any body part or organ.

H. "Establishment" means any privately-owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment, or refreshment.

I. "Proprietor" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

#### 407.03 PROHIBITED ACTS.

A. It is unlawful for a juvenile under the age of twelve (12) to be present in any public place or establishment within Scott County:

1. any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
2. any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

B. It is unlawful for a juvenile from the ages of twelve (12), thirteen (13), or fourteen (14) to be present in any public place or establishment within Scott County:

1. any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
2. any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

C. It is unlawful for a juvenile, ages fifteen (15), sixteen (16), or seventeen (17) to be present in any public place or establishment within Scott County:

1. any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
2. any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

D. It is unlawful for a parent or guardian of a juvenile knowingly, or through negligent supervision, to permit the juvenile to be in any public place or establishment within Scott county during the hours prohibited in paragraphs (A), (B) and (C) of this section.

E. It is unlawful for a proprietor of an establishment within Scott County to knowingly permit a juvenile to remain in the establishment or on the establishment's property during the hours prohibited in paragraphs (A), (B) and (C) of this section.

If the proprietor is not present at the time of the curfew violation, the responding officer shall leave written notice of the violation with an employee of the establishment. A copy of the written notice shall be served upon the establishment's proprietor personally or by certified mail.

#### 407.04 DEFENSES.

A. It is an affirmative defense for a juvenile to prove that:

1. the juvenile was accompanied by his or her parent, guardian, or other responsible adult.
2. the juvenile was engaged in a lawful employment activity or was going to or returning home from his or her place of employment.
3. the juvenile was involved in an emergency situation.
4. the juvenile was going to, attending, or returning home from an official school, religious, or other recreational activity sponsored and/or supervised by a public entity or a civic organization.
5. the juvenile was on an errand at the direction of a parent or guardian.
6. the juvenile was exercising First Amendment rights protected by the United States Constitution or Article I of the Constitution of the State of Minnesota.
7. the juvenile was engaged in interstate travel.
8. the juvenile was on the public right-of-way boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure, or residence.

B. It is an affirmative defense for a proprietor of an establishment to prove that:

1. the proprietor or employee reasonably and in good faith relied upon a juvenile's representations or proof of age. Proof of age may be established pursuant to Minnesota Statute 340A.503, Subd. 6, or other verifiable means, including, but not limited to, school identification cards and birth certificates.

2. the proprietor or employee promptly notified the responsible police agency that a juvenile was present on the premises of the establishment during curfew hours.

407.05 PENALTY.

A. Violation of Section 3(A), (B) or (C) will be prosecuted pursuant to Minnesota Statute 260.195 and will be subject to the penalties therein.

B. Violation of Section 3(D) or (E) is a misdemeanor and will be subject to the penalty set forth in Minnesota Statute 609.03.

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SECTION 408.00 ELIMINATION AND PREVENTION OF PROHIBITED NOISE.

- 408.01 General Provisions.
- 408.02 Noise Prohibited.
- 408.03 Hourly Restriction on Certain Operations.
- 408.04 Receiving Land Use Standards.
- 408.05 Air Circulation Devices.
- 408.06 Exception for Emergency Work.
- 408.07 Powers and Duties of the Noise Control Officer.
- 408.08 Variances.
- 408.09 Enforcement.
- 408.10 Severability.

408.01 GENERAL PROVISIONS.

Subd. 1. Words and phrases defined in this section have, when used in this ordinance, the meanings given below. Any other word or phrases used in this ordinance, and defined in regulations of the Minnesota Pollution Control Agency Noise Pollution Control Section, NPC-1 and NPC-4, has the meaning given in those regulations.

Subd. 2. Air circulation device means a mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.

Subd. 3. L10 means the sound level, expressed in decibels (dBA) which exceeded 10 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the Americans National Standards Institute and using test procedures approved by the (noise control officer).

Subd. 4. L50 means the sound level similarly expressed and measured which exceeded 50 percent of the time for a one-hour period.

Subd. 5. Person means an individual, firm, partnership, corporation, trustee, association, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees.

408.02 NOISE PROHIBITED.

Subd. 1. General prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, safety, peace, or welfare of any persons or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of the following subdivisions.

Subd. 2. Motor vehicles. No person shall operate a motor vehicle in the City in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency.

Subd. 3. Horns, audible signaling devices, etc. No person shall sound any signaling device on any vehicle except as a warning of danger. (M.S. 169.68)

Subd. 4. Exhaust- No person shall discharge the exhaust, or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

Subd. 5. Defective vehicles or loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

Subd. 6. Loading, unloading, unpacking. No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.

Subd. 7. Radios, phonographs, paging system, etc. No person shall use, operate, or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure, mobile home, or building shall be prima facie evidence of a violation of this section.

Subd. 8. Participation in noisy parties or gatherings. No person shall participate in any party or other gathering of people giving rise to noise, disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance shall make every reasonable effort to see that the disturbance is stopped.

Subd. 9. Loudspeakers, amplifiers for advertising, etc. No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

Subd. 10. Animals. No person shall keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.

Subd. 11. Schools, churches, etc. No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, nursing home, homes for the elderly, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

#### 408.03 HOURLY RESTRICTION ON CERTAIN OPERATIONS.

Subd. 1. Recreational vehicles. No person shall, between the hours of 10:00 p.m. and 7:00 a.m., drive or operate any minibike, or other recreational vehicle not licensed for travel on public

highways. Snowmobiles are guaranteed a direct route to and from the City and are exempt from this subdivision.

Subd. 2. Domestic power equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

Subd. 3. Refuse hauling. No person shall collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. (*Ord. 12-08, Section 408.03, adopted December 17, 2012*).

Subd. 4. Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

#### 408.04 RECEIVING LAND USE STANDARDS.

Subd. 1. Maximum noise levels by receiving land use districts. No person shall operate or cause, or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land use category specified when measured at or within the property line of the receiving land use.

Table 1. Sound Levels by Receiving Land Use Districts

LAND USE DISTRICTS	DAY 7:00 A.M. - 10:00 P.M.		NIGHT 10:00 P.M. - 7:00 A.M.	
	L10	L50	L10	L50
Residential	65	60	55	55
Commercial	70	65	70	65
Industrial	80	75	80	75

The limits of the most restrictive district shall apply at the determination of land use shall be by its zoned designation.

Subd. 2. Exemptions. The levels prescribed in Subd. 1 do not apply to noise shall be subject to other applicable sections of this ordinance.

#### 408.05 AIR CIRCULATION DEVICES.

Subd. 1. No person shall permanently install or place any air circulation device, except a window air conditioning unit, in any outdoor location will comply with the noise level standards

prescribed in Section 408.04 and issues a permit for the installation. The noise produced by any window unit and by existing air circulation device shall be attenuated by means deemed appropriate by the noise control officer, including, but not limited to, relocation of such device, if the noise results in or contributes to a violation of Section 408.04.

#### 408.06 EXCEPTION FOR EMERGENCY WORK.

Subd. 1. Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the noise control officer of the need to initiate such work or, if the work is commenced during non-business day thereafter. Any person responsible for such emergency work shall take all responsible actions to minimize the amount of noise.

#### 408.07 POWERS AND DUTIES OF THE NOISE CONTROL OFFICER.

Subd. 1. Administering Officer. The noise control program established by this ordinance shall be administered by the noise control officer, who shall be appointed by the Belle Plaine City Council.

Subd. 2. Testing procedures. The noise control officer shall adopt guidelines establishing the test procedures and instrumentation to be used in enforcing the provisions of Section 408.04 imposing noise standards. A copy of such guidelines shall be kept on file in the office of the noise control officer and shall be available to the public reference during office hours.

Subd. 3. Studies, etc. The noise control officer shall conduct such research, monitoring, and other studies related to sound as are necessary or useful in enforcing this ordinance and reducing noise in the City. She/he shall make such investigations and inspections in accordance with law as required in applying ordinance requirements.

Subd. 4. Noise impact statements. The noise control officer may require any person applying to the City for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the officer. She/he shall evaluate each such statement and make appropriate recommendations to the Council or other agency or officer authorized to take the action or approve the license or permit applied for.

Subd. 5. Other powers and duties. The noise control officer shall exercise such other powers and perform such other duties as are reasonable and necessary to enforce this ordinance.

#### 408.08 VARIANCES.

Subd. 1. Authority. The noise control officer shall have authority, consistent with this section, to grant variances from the requirements of any section of this ordinance.

Subd. 2. Application. Any person seeking a variance shall file an application with the noise control officer on a form prescribed by the officer. The application shall state the dates during which the variance is proposed, the location of the noise source and time of operation, the nature of the noise source, reasons why the variance is sought, steps taken to minimize the noise level,

and such other information as is required by the noise control officer. If the application is for a variance for more than three days, the noise control officer shall give mailed notice of the requested variance to all property owners within 500 feet of the noise source. Any person claiming to be adversely affected by the variance applied may, within 20 days of the mailing of the notice, file a statement with the noise control officer in support of her/his claim.

Subd. 3. Action on application. If the noise control officer finds that sufficient controversy exists regarding the proposed variance, she/he may hold a public hearing on the proposal at which all persons affected shall be given an opportunity to be heard. She/he shall hold such a hearing upon request of the applicant or any person claiming to be adversely affected by the variance applied for. Within 30 days of receipt of the application, the officer shall approve or deny the application. It may be approved only if the officer finds that full compliance with the requirements of the ordinance would constitute an unreasonable hardship on the applicant, on other persons, or on the community. In determining whether to grant or deny the application, the officer shall balance the hardship to the applicant against the adverse impact on the health, safety, and welfare of the persons affected, the adverse impact on property affected, and any other adverse effects of granting variance. The variance may be granted subject to conditions, including a time limit, which shall be clearly stated.

Subd. 4. Appeals. Either the applicant or any party aggrieved may, within 20 days of the decision on the variance application, appeal to the City Council for a review of the decision. The appeal shall be filed in writing with the City Administrator. The appeal shall be heard as soon as practicable and within 20 days of the filing of the appeal, and the applicant and any person who filed a statement on the application for a variance with the noise control officer shall be given at least ten (10) days mailed notice of the time when and place where the appeal will be considered by the Council. The Council may affirm, modify, or overrule the action of the noise control officer on the basis of the criteria set out in Subd. 3.

#### 408.09 ENFORCEMENT.

Subd. 1. Notice of certain violations. When the noise control officer determines that a noise exceeds the maximum sound level permitted under Section 408.04, she/he shall give a written notice of the violation to the owner or occupant of the premises where the noise originates and order such person to correct or remove each specified violation with such a reasonable time as is prescribed in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of the ordinance.

Subd. 2. Civil remedies. This ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd. 3. Criminal penalties. Any violation of this ordinance involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, the violator shall be punished by a fine not to exceed \$200.00, plus the costs of prosecution. Every person who violates any other provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$700.00 or imprisonment for a term of not to exceed 90 days, or both, plus, in either case, the costs of prosecution. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

#### 408.10 SEVERABILITY.



Subd. 1. If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

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SECTION 409.00 REGULATING THE USE OF SKATEBOARDS, ROLLER BLADES,  
ROLLER SKATES, AND ROLLER SKIS.

- 409.01 Purpose.
- 409.02 Definitions.
- 409.03 Prohibition.
- 409.04 Observation of Rules of the Road.
- 409.05 Future Description of Prohibited Area.
- 409.06 Violation.

409.01. PURPOSE.

The purpose of this Ordinance is to protect the public health and safety arising out of the use of skateboards, roller blades, roller skates, and roller skis within the City of Belle Plaine. The City Council of the City of Belle Plaine finds that there are certain public streets and public property wherein the operation and use of skateboards, roller blades, roller skates and roller skis create an unnecessary potential danger to either the user of such devices or the general public; and that the use of said devices in an improper manner may cause destruction of property.

409.02 DEFINITIONS.

ROLLER DEVICE shall mean any one of the following devices:

- A. Roller skates and roller blades mean a shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.
- B. Skateboard means a wheeled self-propelled and manually propelled device to transport a rider which device is not otherwise secured to the rider's feet or shoes.
- C. Roller skis means a pair of skis platformed with wheels attached which is intended to simulate skiing.

Section 409.03 PROHIBITION.

It shall be unlawful for any person to ride or propel himself/herself upon a roller device as defined herein in or on the following areas in the City of Belle Plaine.

- A. On any public streets, roads, highways, alleys, sidewalks, public parking lots, or other public property within the downtown business area which would include:
  - The 100 block of South Meridian Street.
  - The 100 and 200 blocks of North Meridian Street.
  - The 100 block of East Main Street.
  - The 100 and 200 blocks of West Main Street.
  - The 100 block of East Church Street.
  - The 100 block of West Church Street.
  - The 100 block of North Willow Street.
  - The 100 block of North Chestnut Street
- B. All City parks except for Heritage Square Skate Park.

C. The designated City of Belle Plaine parking lots.

D. This Ordinance does not prohibit roller device users from crossing prohibited streets at intersections marked by a crosswalk or to transverse city parks to connect to the sidewalk/trail system. (*Ord. 08-05, Section 409.03, Adopted August 18, 2008.*)

409.04 OBSERVATION OF RULES OF THE ROAD.

Any person who is using any roller device on any of the streets or roadways within the City which are not specified above as prohibited must observe the same rules of the road as required of bicycles pursuant to Minnesota Statutes, Chapter 169.222.

409.05 FUTURE DESCRIPTION OF PROHIBITED AREA.

The City Council may, in the future, by Resolution, prohibit the use of devices defined in Section Two hereof in areas of the City of Belle Plaine in addition to those prohibited in Section Three hereof upon recommendation of the Chief of Police or the Public Works Superintendent.

409.06 VIOLATION.

Any person who violates any provisions of this Ordinance shall be guilty of a petty misdemeanor.

410.00 CONSUMPTION OF LIQUOR ON PUBLIC OR PRIVATE PROPERTY.

410.01 Consumption of Liquor on Public Property.

410.02. Consumption of Liquor on Private Parking Lots.

410.01 CONSUMPTION OF LIQUOR ON PUBLIC PROPERTY.

It is unlawful for any person to consume or possess in an unsealed container, liquor or non-intoxicating malt liquor, as those terms are defined in Chapter 3 of the Code, on any street or other public property except City parks and other public property when and where permission has been specifically granted by the Council or authorized agent. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

410.02 CONSUMPTION OF LIQUOR ON PRIVATE PARKING LOTS.

It is unlawful for any person to consume or possess in an unsealed container, liquor or non-intoxicating malt liquor, as those terms are defined in Chapter 3 of the Code, on any privately owned parking lot, which is clearly sign-posted prohibiting such possession and consumption. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

#### 411.00 SOCIAL HOST.

- 411.01 Title and Authority.
- 411.02 Purpose and Findings.
- 411.03 Definitions.
- 411.04 Prohibited Acts.
- 411.05 Exceptions.
- 411.06 Enforcement.
- 411.07 Severability.
- 411.08 Penalty.
- 411.09 Effective Date.

#### 411.01 TITLE AND AUTHORITY.

The City of Belle Plaine desires to protect the health, safety and welfare of all persons living in and visiting the City of Belle Plaine. The use of alcohol by persons under the age of twenty-one (21) is prohibited by State statute. This ordinance prohibits, and establishes penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age. This ordinance is enacted pursuant to Minn. Stat. §145A.05, subdivision 1.

#### 411.02. PURPOSE AND FINDINGS.

The City of Belle Plaine intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City of Belle Plaine finds that:

- A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- B. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- D. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- E. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

F. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

#### 411.03 DEFINITIONS.

For purposes of this ordinance, the following terms have the following meanings:

ALCOHOL. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

EVENT OR GATHERING. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

HOST. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event, whether that host is present or not.

PARENT. “Parent” means any person having legal custody of a juvenile:

1. As natural, adoptive parent, or step-parent;
2. As a legal guardian; or
3. As a person to whom legal custody has been given by order of the court.

PERSON. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

RESIDENCE OR PREMISES. “Residence” or “Premises” means any home, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, or any other place of assembly, public or private, whether occupied as a dwelling or for any social function, and whether owned, leased, or rented.

UNDERAGE PERSON. “Underage person” is any individual under twenty-one (21) years of age.

#### 411.04 PROHIBITED ACTS.

- A. It is unlawful for any person(s) to;
1. host or allow an event or gathering;
  2. at any residence, premises, or on any other private or public property;
  3. where alcohol or alcoholic beverages are present;
  4. when the person knows that an underage person will or does
    - a. consume any alcohol or alcoholic beverage; or

- b. possess any alcohol or alcoholic beverage with the intent to consume it; and
- 5. after observing or being alerted to illegal activity, the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

B. A person is criminally responsible for violating Section 411.04 of this ordinance if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

#### 411.05 EXCEPTIONS.

A. This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

B. This ordinance does not apply to legally protected religious observances.

C. This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, subd.1(a)(1).

D. This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

#### 411.06 ENFORCEMENT.

This ordinance can be enforced by any police officer, sheriff's deputy, or certified peace officer in the state.

#### 411.07 SEVERABILITY.

If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

#### 411.08 PENALTY.

Violation of Section 411.04 of this ordinance is a misdemeanor.

#### 411.09 EFFECTIVE DATE.

This ordinance shall take effect thirty (30) days following its final passage and adoption and publication in the official newspaper.

*(Ord. 09-04, Section 411, Adopted August 17, 2009.)*

*(Ord. 12-08, Section 408.03, Adopted December 17, 2012.)*

*(Ord. 14-02, Section 400, Adopted March 17, 2014.)*

*(Ord.15-06, Section 403.05, Adopted August 17, 2015).*