

**TITLE IX: GENERAL REGULATIONS**

Chapter

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## **Paragonah - General Regulations**

**CHAPTER 90: ANIMALS**

**IF THERE EXISTS CONFLICT BETWEEN THIS CHAPTER 90 AND THE UTAH CODE TITLE 18 THE MORE STRINGENT SHALL PREVAIL.**

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### **CARE AND KEEPING**

#### **§ 90.001 ANIMALS AT LARGE.**

No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of this municipality, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside municipal limits to any enclosure within the municipal limits or from any enclosure in the municipality to a place outside the municipality or from one enclosure to another within limits of the municipality.

(Prior Code, § 13-20-2-01) Penalty, see § 10.99

**§ 90.002 ABANDONMENT.**

It shall be unlawful for any person to abandon or turn out at large any sick, diseased or disabled animal, but such animal shall, when rendered useless by reason of sickness or other disability, be killed by the owner thereof and its carcass disposed of in such manner as to create no nuisance or hazard to health.

(Prior Code, § 13-20-2-02) Penalty, see § 10.99

**§ 90.003 TRESPASSING ANIMALS AND FOWL.**

It shall be unlawful for any owner or caretaker of any domestic fowl or animal to permit such fowl or animal to trespass upon the premises of another person. A violation of this section shall be an Infraction, and such is hereby declared to be a nuisance. Each day the violation continues to exist shall constitute a separate offense.

(Prior Code, § 13-20-2-03)

**§ 90.004 KILLING OR POISONING PROHIBITED.**

It shall be unlawful for any person willfully to kill any domestic animal, or to administer poison to any such animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.

(Prior Code, § 13-20-2-04) Penalty, see § 10.99

**§ 90.005 DEAD ANIMALS.**

The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal within ten hours after its death, provided that no horse, cow, ox or other animal shall be buried within the closely-inhabited portions of this municipality. A violation of this section is a Class C misdemeanor.

(Prior Code, § 13-20-2-05) Penalty, see § 10.99

**§ 90.006 DISEASED ANIMALS.**

It is a Class C misdemeanor for any person to bring into the municipality for sale or have in his or her possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.

(Prior Code, § 13-20-2-06) Penalty, see § 10.99

**§ 90.007 SALE OF DISEASED ANIMALS.**

It is a Class C misdemeanor for any person to bring into the municipality for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl or poultry which is diseased, unsound and unwholesome or which for any other reason is unfit for human food.

(Prior Code, § 13-20-2-07) Penalty, see § 10.99

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### § 90.008 REPORTING OF RABID ANIMALS.

Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the municipal Health Officer. The Health Officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.

(Prior Code, § 13-20-2-08)

### § 90.009 BITING ANIMAL QUARANTINED FOR OBSERVATION.

Any dog or other animal of a species subject to rabies which is known to have bitten or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the municipal pound and shall not be killed or released until at least 14 days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the state health laboratory to be examined for rabies.

(Prior Code, § 13-20-2-09)

### § 90.010 RABIES CONTACTS QUARANTINED.

Any animal of a species subject to rabies which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal shall be isolated in a suitable place approved by the Poundmaster for a period of 120 days or destroyed.

(Prior Code, § 13-20-2-10)

### § 90.011 UNLAWFUL ACTS.

It shall be unlawful for any person to:

(A) Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or other conveyance in cruel and inhumane manner, any animal or cause any of these acts to be done;

(B) Fail to provide any animal in his or her charge or custody with necessary substance, drink and protection from the elements, or cause any of these acts to be done;

(C) Maintain any place where fowls or any animals are suffered to fight upon exhibition or for sport upon any wager; or

(D) Intentionally exhibit any stud, horse or bull or other animal indecently, or let any male animal to any female animal for the purpose of providing entertainment or viewing to any person.

(Prior Code, § 13-20-2-11) Penalty, see § 10.99

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### ***DOGS***

#### **§ 90.025 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires another meaning.

***AT LARGE.*** Any dog off or away from the premises of the owner. A dog shall be deemed under control of said owner if it is on a leash, chain, cable, cord, or other humane restraining system. Grasping a collar shall not be construed as under control. A violation of this section shall be an Infraction and as such is hereby declared to be a nuisance; each day the violation continues to exist shall constitute a separate offense.

***DISTURBING THE PEACE.*** All owners allowing dogs to bark and disturb the community between the hours of 10:00 p.m. and 10:00 a.m. shall be guilty of disturbing the peace. A violation of this section shall be an Infraction, and such is hereby declared to be a nuisance; each day the violation continues to exist shall constitute a separate offense.

***DOG.*** Any male, female or spayed female dog of any age.

***IMPOUNDED.*** Having been received into the custody of the municipal pound or into the custody of any authorized agent or representative of the municipality.

***OWNER.*** When applied to the proprietorship of a dog shall mean any person or persons, firm, association, or corporation owning, keeping or harboring a dog.

***POUND.*** An animal shelter, lot, premises, or buildings maintained by or authorized or employed by the town for confinement or care of dogs seized either under the provision of this chapter or otherwise.

***POUNDMASTER.*** The custodian selected by the governing body to be responsible for the operation of the dog.

***UNLICENSED DOG.*** A dog for which a license for the current year has not been paid, or for which the tag provided for in this subchapter is not attached.

***VICIOUS DOG.*** A dog that has bitten a person or another animal; or a dog that has a propensity to attack persons or other animals.  
(Prior Code, § 13-20-3-01)

#### **§ 90.026 LICENSE AND REGISTRATION REQUIRED.**

(A) It is unlawful for any person to keep, harbor or maintain any adult dog (four or more months old) unless such dog has been registered and licensed in the manner herein provided.

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(B) Application for registration and licensing shall be made to the Poundmaster or such other person as the governing body may authorize.

(C) A dog license shall be issued by the Poundmaster or such other person as the governing body may authorize only after payment of the license fee and submission of proof of rabies vaccination.

(D) It shall be unlawful for any residence to house, keep, board or otherwise have on any lot within the town limits more than four adult dogs without a current and valid town kennel license. It shall be unlawful for any kennel to house, keep, board or otherwise have more than 25 adult dogs.

(E) Kennel licenses shall be limited to one kennel license per each five contiguous acres owned by the same individual and within the town limits.

(F) A ***KENNEL FACILITY*** shall be defined as chain link fence enclosure having a concrete foundation beneath the fence extending a minimum of 12 inches below the ground surface, also having a chain link fence lid, and a shelter from wind, rain, snow and sun. The minimum area of each enclosure shall be 49 square feet and each enclosure shall house only one dog at a time or one female and her puppies. A separate enclosed breeding facility shall be provided and breeding animals shall be kept away from public view. No kennel facility shall be closer than 50 feet to any property line or residence. Kennel facilities may be subject to twice annual inspection by the Poundmaster or such other person as the Town Board shall appoint for adherence to the laws outlined in the nuisance ordinance regulations, proper waste disposal and/or State Health Department standards for public safety.

(G) Fees pursuant to this section shall be due and payable on April 15 of each year. After this date, a penalty of \$20 shall be charged as a delinquent fee for each license. A dog turning four months old during the year shall be immunized and licensed within 14 days of the time it reaches the age of four months or the penalty shall apply thereafter.

(H) The provisions of this section are not intended to apply to persons visiting who are non-residents and whose dogs are licensed in another municipality. Visits extending beyond 30 days shall be subject to these guidelines.

(I) Dogs used as guides for blind persons, (seeing eye dogs) shall be licensed and immunized, however the licensing fee will be waived.

(J) A noise barrier may be required by the Poundmaster in cases where three or more complaints are filed and no other solution is provided by the owner of a pet or pets.

(K) Persons found not in compliance with these rules and regulations will be guilty of a misdemeanor and will be cited for such. Person found guilty of three such violations shall forfeit the privilege of obtaining a license for dogs in the town, and therefore will not be allowed to keep, harbor or board any dog.

(Prior Code, § 13-20-3-02) (Ord. 00-1, passed 8-9-2000) Penalty, see § 10.99



**§ 90.027 TAG AND COLLAR.**

Upon payment of the license fee, the Clerk shall issue to the owner a license certificate and a metallic tag for each dog as licensed. The tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every dog owner, except those operating a kennel, shall provide each dog with a collar to which the license tag shall be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate will be issued by the Clerk upon presentation of a receipt showing the payment of \$2 for such duplicate. Dog tags shall not be transferrable from one dog to another, and no refunds shall be made on any dog license fee because of death of the dog or the owner's leaving the municipality before expiration of the license period. It shall be unlawful to deprive a registered dog of its collar and/or tag. (Prior Code, § 13-20-3-03) Penalty, see § 10.99

**§ 90.028 RUNNING AT LARGE PROHIBITED.**

(A) It shall be unlawful for the owner or keeper of any dog to permit such dog to run at large.

(B) It shall be unlawful for the owner of a dog to permit such dog to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.

(C) The owner of any dog running at large shall be deemed in violation of this section regardless of the precautions taken to prevent the escape of dog and to prohibit it from running at large.

(D) Any dog running at large in violation of the provision of this section is hereby declared to be a nuisance and a menace to the public health and safety, and the dog shall be taken up and impounded as provided herein.

(E) A dog shall not be deemed at large if it is on a leash, chain, cable, cord, or other humane restraining system. Grasping a collar shall not be construed as under control. A violation of this section shall be an Infraction and as such is hereby declared to be a nuisance; each day the violation continues to exist shall constitute a separate offense.

(F) All tethers shall be ten feet or longer. All tethered dogs shall be provided with sufficient fresh water and a weatherproof structure. (Prior Code, § 13-20-3-04) Penalty, see § 10.99

**§ 90.029 FEMALE IN HEAT.**

The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance.

(Prior Code, § 13-20-3-05) Penalty, see § 10.99

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### § 90.030 STRAYS.

It shall be unlawful for any person to harbor or keep within the municipality any lost or strayed dog. Whenever any dog shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Clerk or Poundmaster, who shall impound for running at large contrary to the terms of this subchapter. If there shall be attached to such dog a license tag for the then current fiscal year, the Poundmaster shall notify the person to whom such license was issued, at the address given in the license. (Prior Code, § 13-20-3-06) Penalty, see § 10.99

### § 90.031 RABIES.

Every owner of any dog over the age of six months within the municipality shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof and shall attach to the collar or harness which such person is hereby required to place upon the dog, a tag showing that such vaccination has been done, provided that the governing body may, by resolution, provide that owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the condition with which the owner must comply to obtain the tag hereinafter required.

(Prior Code, § 13-20-3-07) Penalty, see § 10.99

### § 90.032 DOGS REQUIRED TO HAVE RABIES SHOT.

It shall be unlawful for the owner of any dog to suffer, allow or permit such dog to be or go upon any sidewalk street, alley, public place or square within the municipality without first having had such dog vaccinated every two years against rabies as above provided within the past two years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.

(Prior Code, § 13-20-3-08) Penalty, see § 10.99

### § 90.033 DOGS WHICH DISTURB NEIGHBORHOOD.

No person persons, firm or corporation shall own, keep or harbor any dog which by loud, continued or frequent barking, howling yelping or by noxious or offensive odors shall annoy, disturb or endanger the health and welfare of any person or neighborhood. A violation of this section shall be an Infraction and such is hereby declared to be a nuisance, and each day the violation is permitted to exist or continue shall constitute a separate offense. This section shall not apply to the municipal dog pound, veterinary hospitals or medical laboratories.

(Prior Code, § 13-20-3-09) Penalty, see § 10.99

### § 90.034 VICIOUS ANIMALS; SPECIAL PROVISIONS.

(A) It shall be unlawful for any person to own and possess a vicious dog within the municipality. Whenever a prosecution for this offense is commenced under this section the dog so involved may not be redeemed, pursuant to the provisions of this subchapter, while awaiting final decision of the court as

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to the disposition made of such dog.

(B) Upon the trial of any offense under this subchapter, the court may, upon conviction and in addition to the usual judgment of conviction order the Poundmaster or other authorized personnel of the municipality to put the dog to death or may order such other disposition of the dog as will protect the inhabitants of the municipality.

(Prior Code, § 13-20-3-10) Penalty, see § 10.99

### **§ 90.035 DOG POUND.**

The governing body may contract with some humane person as Poundmaster, with the adjoining municipality or with the county for the purpose of providing suitable premises and facilities to be used by the municipality as the dog pound. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the dogs from injury.

(Prior Code, § 13-20-3-11)

### **§ 90.036 IMPOUNDING.**

It shall be the duty of every police officer or other designated official to apprehend any dog found running at large, not wearing his or her tag, or which is in violation of this subchapter and to impound such dog in the pound or other suitable place. The Poundmaster or some other designated official, upon receiving any dog, shall make a complete registry, entering the breed, color and sex of such dog and whether licensed. If licensed, he or she shall enter the name and address of the owner and number of the license.

(Prior Code, § 13-20-3-12)

### **§ 90.037 RECORD OF IMPOUNDING ANIMALS.**

The Poundmaster shall keep a record of each animal impounded by him or her, the date or receipt of such animal, the date and manner of its disposal and if redeemed, reclaimed or sold the name of the person by whom redeemed, reclaimed or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.

(Prior Code, § 13-20-3-13) Penalty, see § 10.99

### **§ 90.038 REDEMPTION OF IMPOUNDED DOGS.**

Any dog impounded as a licensed or unlicensed dog may be redeemed and taken from such pound by the owner or any authorized person upon exhibiting to the supervisor or person having charge of said pound, a certificate of registry as provided in § 90.036, showing that the license imposed by this subchapter has been paid for such dog and upon paying the person in charge of the pound an impounding fee of \$5 and the sum of \$0.50 for each and every day such dog shall have been impounded. All impounded dogs not redeemed within five days shall be sold for the best price obtainable at either private

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or public sale, and all monies received from such sales shall be paid daily to the Treasurer. All dogs that are not sold or redeemed in the required time shall be disposed of in a humane manner.

(Prior Code, § 13-20-3-14)

### § 90.039 DISPOSITION OF UNCLAIMED AND INFECTED DOGS.

All impounded dogs not redeemed within five days of the date of impounding may be destroyed or sold to the person first making written request for purchase at such price as may be deemed agreeable. In the case of dogs severely injured or having contagious disease other than rabies and which in the Poundmaster's judgment are suffering and recovery is doubtful, the Poundmaster may destroy the dog without awaiting the five-day period.

(Prior Code, § 13-20-3-15)

### § 90.040 INTERFERENCE WITH IMPOUNDING PROHIBITED.

It shall be unlawful for any person to hinder, delay, interfere with or obstruct the Poundmaster or any of his or her assistants while engaging in capturing, securing or taking to the dog pound any dog or dogs liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any dog pound or ambulance, wagon or other vehicle used for the collecting or conveying of dogs to the dog pound.

(Prior Code, § 13-20-3-16) Penalty, see § 10.99

## *ESTRAYS*

### § 90.055 IMPOUNDING AND DISPOSAL OF ESTRAYS, GENERALLY.

It is hereby made the duty of the Poundmaster to take into his or her possession and impound all estrays running at large, and to dispose of the same as hereinafter provided. Whenever the word *ESTRAY* appears in this subchapter, it is defined to mean any valuable animal, except dogs or cats, not wilds, found wandering from its owners.

(Prior Code, § 13-20-4-01)

### § 90.056 NOTICE OF SALE OF ESTRAYS.

(A) Within three days after an estray shall come into the possession of the Poundmaster, he or she shall advertise the same in a newspaper published in and having general circulation in the county by publishing a notice in at least one issue of the newspaper, and by posting notices for a period of ten days in three public places in the municipality, one of which places shall be at or near the post office. He or she shall immediately deliver a copy of such notice to the County Clerk or mail the same to him or her by registered letter.

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(B) The notice so filed with the Clerk should be available during reasonable hours for inspection by the public free of charge. The notice herein provided for shall contain a description of the animals, including all marks, and brands, when taken, and the day, hour and place of sale, and may be substantially:

NOTICE

State of Utah, County of \_\_\_\_\_,

In the \_\_\_\_\_ of \_\_\_\_\_ I have in my possession the following described estray animals, which, if not claimed and taken away, will be sold at a public auction to the highest cash bidder at the municipal pound in the \_\_\_\_\_ Of \_\_\_\_\_, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the hour of \_\_\_\_\_: (Description of Animals)

The estrays were taken up by me in the municipality on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
\_\_\_\_\_  
Poundmaster of the \_\_\_\_\_

(Prior Code, § 13-20-4-02) Penalty, see § 10.99

**§ 90.057 RETURN TO THE OWNER ON PAYMENT OF COSTS; SALE.**

(A) If at any time before the sale of any estrays, such animals shall be claimed and proved to be the property of any person, the Poundmaster shall deliver them to the owner upon receiving from him or her the cost of impounding, keeping and advertising the same. If the animals are not so claimed and taken away, he or she shall, at the time and place mentioned in the notice, proceed to sell the same, one at a time, to the highest cash bidder, and shall execute and deliver a bill of sale transferring said animals to the purchaser or purchasers thereof, which bill of sale shall be substantially:

I hereby certify that in pursuance of the law regulating the disposal of estrays and trespassing animals, I have this day sold to \_\_\_\_\_ for the sum of \$ \_\_\_\_\_, he or she being the highest bidder, \_\_\_\_\_ head of \_\_\_\_\_ branded with the municipality estray brand and otherwise described as follows, to wit: (Description of Animals)

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Poundmaster  
of \_\_\_\_\_ State of Utah

(B) The Poundmaster shall immediately file a copy of such bill of sale with the County Clerk or forward the same to him or her by registered mail. Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus sold.

(Prior Code, § 13-20-4-03)

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### **§ 90.058 RECORD OF ESTRAYS.**

The Poundmaster shall keep an accurate record of all estrays received by him or her, their age, color, sex, marks and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount paid, all monies paid to owners after sale, all monies paid into the treasury, and all other matters necessary to the compliance with the provisions of this subchapter. The governing body shall provide the Poundmaster with a suitable book in which shall be entered the records required by law to be kept by the Poundmaster. Such records shall be open to inspection of the public at all reasonable hours, and shall be deposited by the Poundmaster with his or her successor in office.

(Prior Code, § 13-20-4-04)

### **§ 90.059 TRESPASSING ANIMALS; DAMAGING; IMPOUNDING.**

If any cattle, horses, assess, mules, sheep, goats or swine shall trespass or do damage upon the premises of any person, the party aggrieved, whether he or she be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals or be detaining and impounding the animals in the manner provided.

(Prior Code, § 13-20-4-05)

### **§ 90.060 APPRAISMENT OF DAMAGES.**

The owner or occupant of any property may detain any or all of said animals trespassing or doing damage thereon. He or she shall, within 24 hours thereafter, deliver said animals to the Poundmaster together with a certificate of the appraisal of the damage done by such animals. Such appraisal must be made by some disinterested person. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known, it must state that fact together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisal and a separate certificate thereof shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners. In such cases, the owners shall be notified separately, and each lot or group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times.

(Prior Code, § 13-20-4-06) Penalty, see § 10.99

### **§ 90.061 OWNER TO BE NOTIFIED.**

The person detaining the animals must, if the owner of the same be known to him or her and if he or she resides within ten miles of the place of the trespass, immediately deliver to such owner, or leave at his or her place of residence if he or she cannot be found, a copy of such certificate of appraisal; but if the owner does not live within ten miles of the place of trespass, the party detaining the animals may at his or her option deliver a copy of such certificate to the owner in person, or deposit the same in the nearest post office in a registered letter addressed to said owner. He or she shall be entitled to charge

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\$0.50 a mile one way for the first ten miles necessarily traveled in delivering such certificate, and \$0.25 for each additional mile, to be taxed as costs against the animals.

(Prior Code, § 13-20-4-07) Penalty, see § 10.99

### **§ 90.062 FAILURE TO NOTIFY WAIVES DAMAGES.**

If the party detaining any animals shall fail to deliver them or the certificate of appraisement to the Poundmaster within 48 hours, or shall fail to deliver to the owners of the animals, if known, a copy of the certificate of appraisement within 24 hours after he or she receives the same or to deposit the same in a post office as herein provided, he or she shall not be entitled to recover damages under the provision of this subchapter.

(Prior Code, § 13-20-4-08) Penalty, see § 10.99

### **§ 90.063 WHERE OWNER UNKNOWN; DUTY OF POUNDMASTER.**

Whenever any animals are delivered to the Poundmaster and the certificate of appraisement is filed with him or her as herein provided and such certificate states that the owner is unknown, the Poundmaster shall immediately examine all brand books or brand sheets in his or her possession. If the owner be ascertained thereby or if the owner is already known to the Poundmaster, he or she shall, if the owner lives within ten miles, immediately deliver a copy of such certificate of appraisement to such owner, or leave the same at his or her residence if he or she cannot be found. If the owner lives more than ten miles away, the Poundmaster may at his or her option deliver such copy personally to the owner, or deposit the same in the nearest post office in a registered letter addressed to such owner. He or she shall, however, serve a copy in one of the ways provided herein; provided that whenever personal service of a copy of any paper is required by this chapter, service by agent shall be deemed sufficient.

(Prior Code, § 13-20-4-09) Penalty, see § 10.99

### **§ 90.064 NOTICE OF SALE OF DISTRAINED ANIMALS.**

(A) As soon as any such animals are delivered to the Poundmaster, he or she shall immediately proceed to advertise the same as hereinafter provided, except when the owner is known and has been notified, in which case he or she shall hold said animals 48 hours before advertising the same. He or she shall advertise in a newspaper published in and having general circulation in the county, by publishing a notice in at least one issue of said paper, by posting notices in three public places in the municipality, one of which shall be at or near the post office, and he or she shall deliver a copy of the same to the County Clerk or send the same by deputy or by registered mail.

(B) The Clerk should preserve such notice and post a copy thereof. The notice and the amount thereof, the name of the party damaged, a description of the animals, including all visible marks and brands, and the day, hour and place at which such animals will be sold, which shall be not less than ten or more than 20 days from the time of posting such notice. The notices shall be substantially:

SALE OF ANIMALS FOR DAMAGE

State of Utah, County of \_\_\_\_\_,

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In the \_\_\_\_\_ of \_\_\_\_\_ I have in my possession the following described animals, which, if not claimed and taken away, will be sold at a public auction to the highest cash bidder at the municipal pound in the \_\_\_\_\_ of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at the hour of \_\_\_\_\_: (Description of Animals)

The above described animals are held by me to secure the payment of \$ \_\_\_\_\_ damages done by those animals on the premises of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ Poundmaster of the \_\_\_\_\_

(Prior Code, § 13-20-4-10)

### **§ 90.065 OWNER MAY PAY AND TAKE ANIMALS; DISPUTED APPRAISAL.**

The owner of any trespassing animals taken up under the provisions of this chapter may at any time before the sale thereof claim and take such animals away upon paying the amount of damages set forth in the certificate of appraisement and the accrued costs, and if such animals are included in a lot or group of animals belonging to other parties against which the damages and costs are assessed as a whole, he or she shall pay his or her proportion of the total amount of damages and costs assessed against such animals, according to the number of animals he or she owns when compared with the number of the entire lot or group. If he or she deems the appraisal too high, he or she may choose another appraiser having qualification herein provided who with the first appraiser shall make a new appraisal, and if they cannot agree, they shall choose a third appraiser, and the three shall proceed to make another appraisal, and the decision of the majority shall be final.

(Prior Code, § 13-20-4-11) Penalty, see § 10.99

### **§ 90.066 SALE; BILL OF SALE.**

If such animals are not claimed and taken away by the owner, the Poundmaster shall, at the time and place set forth in the notice of sale, proceed to sell such animals, one at a time, to the highest cash bidder. If the owner of any lot of animals to be sold is known, the Poundmaster shall sell only enough of said animals to pay the damages and costs, the remainder may be turned over to the owner at any time thereafter; but if the owner be unknown, the Poundmaster shall proceed to sell all of said animals so advertised for sale. He or she shall execute and deliver a bill of sale therefor, and file a copy with the County Clerk as hereinbefore provided.

(Prior Code, § 13-20-4-12)

### **§ 90.067 REDEMPTION WITHIN 90 DAYS.**

The owner of any trespassing animals sold under the provisions of this subchapter may, at any time within 90 days of the date of such sale, redeem such animals from the purchaser or assignee having the same in his or her possession, upon paying to such purchaser or assignee the sum for which such animals were originally sold, together with an additional ten percent and reasonable compensation for care and



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keeping of the same. If such purchaser or assignee refuses to give up such animals on the owner proving his or her title to the same and on his or her tendering the amount due as herein provided, such owner may maintain any action at law to recover the same, provided that the purchaser or any assignee who has disposed of such animals shall not be liable to such owner in any amount. If redemption of such animals is not made within 90 days after the date of such sale, such sale shall be absolute and shall vest the title to such animals in the purchaser or assignee. Any person selling or disposing of any such animal within 90 days of its sale under the provision of this subchapter shall notify the purchaser of the same of the date of the original sale and the amount paid for such animal at that time, if he or she fails to do so, he or she shall be liable for any loss that may accrue to such purchaser by reason of such animal being redeemed for an amount less than he or she paid therefor.

(Prior Code, § 13-20-4-13) Penalty, see § 10.99

### **§ 90.068 OWNER ENTITLED TO RESIDUE OF PROCEEDS.**

If any estrays or trespassing animals sold under the provision of this subchapter shall, within a period of six months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the Treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the amount of damages and the expense of taking, keeping and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the municipality, provided that in case there is a contest between two or more persons claiming to be the owners of any such animals, the Treasurer shall pay the residue to the party who shall establish by his or her right to the same.

(Prior Code, § 13-20-4-14)

### **§ 90.069 RECORD OF TRESPASSING ANIMALS.**

The Poundmaster shall keep an accurate record of all trespassing animals received by him or her, which record shall contain all the items required by this subchapter together with the names of the injured party and the owner of the animals, the amount of the damages claimed and all other matters necessary to a complete account of the transaction.

(Prior Code, § 13-20-4-15)

### **§ 90.070 RETAKING ANIMAL UNLAWFULLY.**

It shall be unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provision of this subchapter, either by stealth, force, fraud or to intercept or hinder any person lawfully taking or attempting to take up such animals.

(Prior Code, § 13-20-4-16) Penalty, see § 10.99

## ***POUNDMASTER***

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### **§ 90.085 OFFICE OF POUNDMASTER CREATED.**

The position of municipal Poundmaster hereby is created. Until such time as a Poundmaster is appointed, the Chief of Police shall be Poundmaster ex officio.

(Prior Code, § 13-20-1-01)

### **§ 90.086 DUTIES OF POUNDMASTER.**

The Poundmaster shall perform the following duties:

(A) Carry out and enforce the provisions of this chapter;

(B) Take into his or her possession and impound all strays running at large and dispose of the same as hereinafter provided;

(C) Enforce the licensing of and control all dogs within the municipality as hereinafter provided;

(D) File complaints in the courts against any person, firm or corporation failing to comply with the provisions of this chapter and obtain licenses when required thereunder;

(E) Capture and secure all dogs found running at large contrary to the provisions of this chapter and impound such dogs in a humane manner;

(F) Provide for a good and sufficient pound in which all animals duly committed to his or her charge or otherwise impounded by him or her shall be maintained; and

(G) Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstances under which received or impounded, and a description thereof sufficient to provide identification, the cost expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animals.

(Prior Code, § 13-20-1-02)

### **§ 90.087 INTERFERENCE WITH OFFICER PROHIBITED.**

It shall be unlawful for any person to interfere, molest, hinder or obstruct the Poundmaster or any of his or her authorized representatives in the discharge of their duties as herein prescribed.

(Prior Code, § 13-20-1-03) Penalty, see § 10.99

### **§ 90.088 FEES; SERVICES OF POUNDMASTER.**

The Poundmaster shall charge, and the owners of animals taken into his or her possession for impound disposal or other services shall pay, such fees and charges for services performed by the pound or Poundmaster as the governing body shall establish from time to time by resolution. All fees received by the Poundmaster shall be paid over to the Municipal Treasurer.

(Prior Code, § 13-20-1-04)

***ANIMAL OFFENSES; CRUELTY TO ANIMALS***

**§ 90.100 CRUELTY TO ANIMALS.**

*(A) Generally.*

(1) A person commits cruelty to animals if he or she intentionally or knowingly:

- (a) Tortures or seriously overworks an animal;
- (b) Fails to provide necessary food, care or shelter for an animal in his or her custody;
- (c) Abandons an animal in his or her custody;
- (d) Transports or confines an animal in a cruel manner;
- (e) Kills, injures or administers poison to an animal without legal privilege; or
- (f) Causes one animal to fight with another.

(2) It is a defense to the prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using accepted veterinary practice or directly related to a bonafide experimentation for scientific research not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

(3) Cruelty to animals is a Class B misdemeanor.

(Prior Code, § 13-76-9-301)

*(B) Spectator at organized animal fight.*

(1) It is unlawful for any person to be a spectator at an organized animal fight.

(2) For the purposes of this section only, an **ORGANIZED ANIMAL FIGHT** means a fight between animals for the benefit of spectators. There is no requirement that an admission fee be charged.

(3) Cruelty to animals is a Class B misdemeanor.

(Prior Code, § 13-76-9-301.5) Penalty, see § 10.99

**§ 90.101 ALLOWING VICIOUS ANIMAL TO GO AT LARGE.**

Any owner of a vicious animal, knowing its propensities, who willfully allows it to go at large or

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who keeps it without ordinary care, causes injury to another animal or to any human being who has taken reasonable precaution which the circumstance permitted is guilty of a Class B misdemeanor.  
(Prior Code, § 13-76-9-304) Penalty, see § 10.99

### **§ 90.102 OFFICERS' AUTHORITY TO TAKE POSSESSION OF ANIMALS; LIEN.**

UCA § 76-9-305 is incorporated herein by reference, and renumbered § 90.102.  
(Prior Code, § 13-76-9-305)

**CHAPTER 91: FIREWORKS**

Section

- 91.01 Short title
- 91.02 Definitions

**§ 91.01 SHORT TITLE.**

This chapter shall be known and cited as the “Paragonah Town Fireworks Ordinance.”  
(Prior Code, § 13-11-3-01)

**§ 91.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMBINATION FIREWORKS DEVICE.** Any device containing combinations of two or more of the effects described in the definitions of **FIREWORKS** or **GROUND OR HAND-HELD SPARKLING**.

**FIREWORKS.** Any composition or device manufactured or used for the purpose of producing a visible or audible effect by combustion, deflagration or detonation, but does not include model rockets, toy pistol caps, emergency signal flares, snakes or glow worms, party poppers, wire sparklers under 36 inches in length, matches or Class A and B explosives.

**GROUND AUDIBLE DEVICE.** Any paper or cardboard tube containing not more than 50 milligrams of pyrotechnic material that travels along the ground (chaser) upon ignition and often produces a whistling and/or popping effect.

**GROUND OR HAND-HELD SPARKLING.**

(1) Any cylindrical tube (cylindrical fountain) not exceeding three-quarter inches in inside diameter and containing not more than 75 grams of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

(2) Any cardboard or heavy paper cone (cone fountain) containing up to 50 grams of pyrotechnic composition which produces a shower or color and sparks upon ignition and may whistle or pop;

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(3) Any cylindrical tube (illuminating torch) containing up to 100 grams of pyrotechnic composition which produces colored fire upon ignition;

(4) Any pyrotechnic device (wheel) capable of being attached to a post or tree containing up to six “driver” units or tubes not exceeding one-half inch in inside diameter and each containing not more than 60 grams of pyrotechnic composition per driver unit which revolves upon ignition producing a shower of color and sparks and sometimes a whistling effect;

(5) Any device similar in design and effect to a “wheel” capable of being placed on the ground (ground spinner) and ignited; and

(6) Any narrow paper fuse-less tube (flitter sparkler) filled with pyrotechnic composition that produces color and sparks when the popper at one end of the tube is ignited.

### ***TRICK NOISEMAKER.***

(1) Any tube or sphere containing pyrotechnic composition that upon ignition produces white or colored smoke (smoke device) as its primary effect; and

(2) Any device that produces a small report intended to surprise the user, including:

(a) A “bobby trap,” which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

(b) A “snapper,” which is a small paper wrapped device containing a minute quantity of explosive composition coated with bits of sand which explodes producing a small report;

(c) A “trick match,” which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

(d) A “cigarette load,” which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when the cigarette is ignited; and

(e) An “auto burglar alarm,” which is a tube which contains pyrotechnic composition that produces a loud whistle and smoke when ignited. A small quantity of explosive, not exceeding 50 milligrams may also be used to produce a small report. A squib is used to ignite the device.

(Prior Code, § 13-11-3-02)

**CHAPTER 92: NUISANCES**

Section

*Nuisances as Offenses*

- 92.001 Nuisance defined; violation; classification of offenses
- 92.002 Befouling waters
- 92.003 Public nuisance defined
- 92.004 Maintaining, committing or failing to remove public nuisances; classification of offense
- 92.005 Carcass of offal; prohibitions relating to disposal; classification of offense
- 92.006 Not to affect other provisions of municipal ordinances
- 92.007 Action for abatement of public nuisances

*General Provisions*

- 92.020 Nuisances defined
- 92.021 Author of nuisance defined
- 92.022 Declaration of nuisance
- 92.023 Enumeration of nuisances
- 92.024 Toilet or sewer facilities
- 92.035 Restrictions on blocking water

*Abatement of Weeds and Deleterious Objects*

- 92.050 Real property to be kept clean
- 92.051 Weeds defined
- 92.052 Standards of weed control

*Nuisances on Property*

- 92.065 Definition of nuisance
- 92.066 Duty of maintenance of private property
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*Administrative Notices; Hearings; Disposal of Nuisance; Lien; Violations*

- 92.080 Appointment and duties of Inspector
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- 92.083 Itemized statement
- 92.084 Failure to make payment
- 92.085 Collection by lawsuit
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- 92.087 Criminal proceedings
  
- 92.999 Penalty

### *NUISANCES AS OFFENSES*

#### **§ 92.001 NUISANCE DEFINED; VIOLATION; CLASSIFICATION OF OFFENSES.**

(A) A nuisance is any item, thing, manner or condition whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.

(B) Any person, whether as owner, agent or occupant, who creates, aids in creating or contributes to a nuisance, or who supports, continues or retains a nuisance is guilty of a Class B misdemeanor. (Prior Code, § 13-76-10-801) Penalty, see § 92.999

#### **§ 92.002 BEFOULING WATERS.**

A person is guilty of a Class B misdemeanor if he or she:

(A) Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well or spring of water used for domestic purposes;

(B) Deposits, piles, unloads or leaves any manure heap, offensive rubbish or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well or spring of water used for domestic purposes;

(C) Dips or washes sheep in any stream, or constructs, maintains or uses any pool or dipping vat for dipping or washing sheep in such close proximity to any stream located within this municipality or over which this municipality may exercise its jurisdiction and used by the inhabitants of this municipality for domestic purposes as to make the waters thereof impure or unwholesome;

(D) Constructs or maintains any corral, yard or vat to be used for the purpose of shearing or dipping sheep within 12 miles of the municipality, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of this municipality for domestic purposes; or

(E) Establishes and maintains any corral, camp or bedding place for the purpose of herding, holding or keeping any cattle, horses, sheep, goats or hogs, within seven miles of this municipality, where the



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refuse or filth from the corral, camp or bedding place will naturally find its way into any stream of water used by the inhabitants of this municipality of domestic purposes.

(Prior Code, § 13-76-10-802) Penalty, see § 92.999

### **§ 92.003 PUBLIC NUISANCE DEFINED.**

(A) A public nuisance is a crime against the public order and economy of this municipality and consists in unlawfully doing any act or omitting to perform any duty, which act or omission, either:

(1) Annoys, injures or endangers the comfort, repose, health or safety of three or more persons;

(2) Offends public decency;

(3) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, stream, canal or basin, or any public park, square, street or highway; or

(4) In any way renders three or more persons insecure in life or the use of property.

(B) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of whether the extent of annoyance or damage inflicted on individuals is unequal.

(Prior Code, § 13-76-10-803) Penalty, see § 92.999

### **§ 92.004 MAINTAINING, COMMITTING OR FAILING TO REMOVE PUBLIC NUISANCE; CLASSIFICATION OF OFFENSE.**

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-804) Penalty, see § 92.999

### **§ 92.005 CARCASS OF OFFAL; PROHIBITIONS RELATING TO DISPOSAL; CLASSIFICATION OF OFFENSE.**

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral or butcher shop into any river creek, pond, street, alley or public highway, or road in common use or who attempts to destroy it by fire, within one-fourth of a mile of this municipality is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-805) Penalty, see § 92.999

### **§ 92.006 NOT TO AFFECT OTHER PROVISIONS OF MUNICIPAL ORDINANCES.**

Nothing contained in this subchapter shall affect any other provisions of this municipality's ordinances, rules or regulations which regulate, prohibit or effect nuisances or public nuisances.

(Prior Code, § 13-76-10-806)

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### § 92.007 ACTION FOR ABATEMENT OF PUBLIC NUISANCES.

The Municipal Attorney is empowered to institute an action in the name of this municipality to abate a public nuisance.

(Prior Code, § 13-76-10-807)

### *GENERAL PROVISIONS*

### § 92.020 NUISANCES DEFINED.

Whatever is dangerous to human life or health and whatever renders soil, air, water or food impure or unwholesome is declared to be a nuisance and unlawful. It shall be unlawful for any person either as an owner, agent or occupant to create, or aid in creating or contributing to or maintaining a nuisance.

(Prior Code, § 10-311) Penalty, see § 92.999

### § 92.021 AUTHOR OF NUISANCE DEFINED.

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his or her agent, the tenant or his or her agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

(Prior Code, § 10-312)

### § 92.022 DECLARATION OF NUISANCE.

(A) Every act or condition made, permitted, allowed or continued in violation of § 92.020 is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.

(B) Nuisances include:

(1) Befouling water in any spring, stream, well or water source supplying water for culinary purposes;

(2) Allowing any privy, vault or cesspool or other individual waste water disposal system to become a menace to health or a source of odors to air or water;

(3) Permitting any garbage container to remain on premises when it has become unclean and offensive;

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(4) Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area except when it is temporarily deposited for immediate removal;

(5) Permitting the accumulation of manure in any stable, stall, feed yard, yard or in any other building or area in which any animals are kept;

(6) Permitting any slaughter house, market, meat shop, stable, feed yard or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed;

(7) Discharging or placing any offensive water, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural water course, ditch, canal or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so;

(8) Keeping or collecting any stale or putrid grease or other offensive matter;

(9) Having or permitting upon any premises any fly or mosquito-producing condition;

(10) Keeping any drinking vessel for public use without providing a method of decontamination between uses;

(11) Permitting or performing any ablutions in or near any public drinking fountain;

(12) Failing to furnish any dwelling house, boarding house or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition;

(13) Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults and cesspools or other individual waste water disposal systems within 20 days after notice from any enforcement officer or employee of the town;

(14) Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances; and

(15) Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the governing body.

(Prior Code, § 10-313) Penalty, see § 92.999

### § 92.023 ENUMERATION OF NUISANCES.

The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

(Prior Code, § 10-314) Penalty, see § 92.999

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### § 92.024 TOILET OR SEWER FACILITIES.

(A) All toilet or sewer facilities shall be constructed and maintained in accordance with the ordinances of this town.

(B) All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed.

(Prior Code, § 10-315) Penalty, see § 92.999

### § 92.025 RESTRICTIONS ON BLOCKING WATER.

(A) It shall be unlawful for any person or persons to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.

(B) Maintenance of any such water course in such condition shall constitute a nuisance and the same shall be subject to abatement.

(Prior Code, § 10-316) Penalty, see § 92.999

## *ABATEMENT OF WEEDS AND DELETERIOUS OBJECTS*

### § 92.050 REAL PROPERTY TO BE KEPT CLEAN.

It shall be an infraction for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this subchapter or not to remove from any such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the Health Director as hereinafter provided.

(Prior Code, § 10-321) Penalty, see § 92.999

### § 92.051 WEEDS DEFINED.

*WEEDS* shall include any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the State Commissioner of Agriculture.

(Prior Code, § 10-322)

### § 92.052 STANDARDS OF WEED CONTROL.

(A) It is hereby declared that the above stated weeds constitute a nuisance when they create a fire hazard, a source of contamination, or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or are unsightly or

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deleterious to humans for are unsightly or deleterious to their surroundings.

(B) The cut weeds shall be removed from the premises within 48 hours after cutting.  
(Prior Code, § 10-323)

### ***NUISANCES ON PROPERTY***

#### **§ 92.065 DEFINITION OF NUISANCE.**

For the purpose of this subchapter, the term ***NUISANCE*** means any condition of use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to keeping or depositing on, or scattering over the premises any of the following:

(A) Lumber, junk, trash or debris; or

(B) Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers.  
(Prior Code, § 10-331)

#### **§ 92.066 DUTY OF MAINTENANCE OF PRIVATE PROPERTY.**

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

(Prior Code, § 10-332) Penalty, see § 92.999

#### **§ 92.067 STORAGE OF PERSONAL PROPERTY.**

Unsheltered storage of old, unused and stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, for a period of 30 days or more (except in licensed junk yards) within this municipality hereby declared to be a nuisance and dangerous to the public safety.

(Prior Code, § 10-333) Penalty, see § 92.999

#### **§ 92.068 ABATEMENT OF NUISANCE BY OWNERS.**

The owner, owners, tenants, lessees or occupants of any lot within this town on which such storage as defined in the foregoing § 92.067 is made, and also the owner, owners or lessees of the above described personal property involved in such storage shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured buildings to be used for such purposes, or otherwise to remove such property from this town.

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(Prior Code, § 10-334)

### *ADMINISTRATIVE NOTICES; HEARINGS; DISPOSAL OF NUISANCE; LIEN; VIOLATIONS*

#### **§ 92.080 APPOINTMENT AND DUTIES OF INSPECTOR.**

(A) There is hereby established the position of Nuisance Inspector, whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the Chief of Police shall enforce the provisions of this chapter. More than one person may be appointed to act as Inspector under this section.

(B) The Nuisance Inspector is authorized to:

(1) Perform all functions necessary to enforce the provisions of this chapter; and

(2) Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.

(C) If he or she concludes there exists an objectionable condition in violation of this chapter, the Inspector shall:

(1) Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist;

(2) Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at his or her last known post office addresses as disclosed by the records of the County Assessor or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the Inspector may designate, provided that any person notified pursuant to this division (C) shall be given at least ten but not more than 20 days, as determined by the Inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:

(a) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists;

(b) Inform the owner, occupant or other person that in the event he or she disagrees with the determination of the Inspector and does not wish to comply with the provisions of the notice or that he or she objects to the factual or legal basis for the notice, he or she may request in writing a hearing before the governing body at a time and place to be set by the governing body. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice; and

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(c) Inform the person that, in the event he or she fails or neglects to correct the objectionable condition, the town will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he or she will be assessed such costs together with reasonable attorneys' fees and court costs, or will charge the cost of correcting the violation against the property as a tax.

(3) If the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the Clerk shall notify the owner, occupant or other persons in writing of the time and place at which they may appear and be heard. The hearing shall not be heard within less than five days from the date of service or mailing of the notice of hearing.  
(Prior Code, § 10-351)

### § 92.081 HEARING.

(A) At the written request of an owner, occupant or other person having an interest in property which is the subject of notice to remove or abate weeds, objectionable conditions or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter. The governing body shall also permit the presentation of evidence and argument by the Inspector and other interested parties. Thereafter, within not less than five not more than ten days, the governing body shall over the signature of the Mayor or such other member of the governing body as it may designate render its written decision, a copy of which shall be mailed to be served upon the owner or other person to whom original notice was given by the Inspector.

(B) If the decision of the governing body upholds the determination of the Inspector, the notice originally given by the Inspector, the notice originally given by the Inspector as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he or she shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed 30 days, is authorized by the Inspector.

(C) If that the decision of the governing body either overrules or modifies the determination of the Inspector, the written decision of the governing body shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the governing body within ten days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the Inspector unless additional time is authorized by the governing body.

(D) The Inspector shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer.  
(Prior Code, § 10-352)

### § 92.082 FAILURE TO COMPLY.

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In any owner, occupant or other person having an interest in land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the Inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of this town.

(Prior Code, § 10-353)

### **§ 92.083 ITEMIZED STATEMENT.**

The Inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within 20 days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant or person having an interest in the property.

(Prior Code, § 10-354)

### **§ 92.084 FAILURE TO MAKE PAYMENT.**

If the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the Town Treasurer within the 20 days, the Inspector either may cause suit to be brought in an appropriate court of law or may refer the matter to the County Treasurer as provided in this chapter.

(Prior Code, § 10-355)

### **§ 92.085 COLLECTION BY LAWSUIT.**

If collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorneys' fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

(Prior Code, § 10-356)

### **§ 92.086 COLLECTION THROUGH TAXES.**

If the Inspector elects to refer the expenses of destruction or removal to the County Treasurer for inclusion in the tax notice of the property owner, he or she shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the three copies of the statement to the County Treasurer within ten days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the cost of the work shall be pursued by the County Treasurer in accordance with the provisions of UCA § 10-11-4, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

(Prior Code, § 10-357)



**§ 92.087 CRIMINAL PROCEEDING.**

The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance or the granting to the defendant of an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

(Prior Code, § 10-358)

**§ 92.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any owner, occupant or person having an interest in the property subject to §§ 92.080 through 92.087 who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a Class C misdemeanor for each offense and further sum of \$10 for each and every day such failure to comply continues beyond the date fixed for compliance.

(2) Compliance by any owner, occupant or person to whom a notice has been given as provided in §§ 92.080 through 92.087 shall not be admissible in any criminal proceeding brought pursuant to this division (B).

(Prior Code, § 10-359)



**CHAPTER 93: STREETS, SIDEWALKS AND PUBLIC WAYS**

Section

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- 93.001 Department; Superintendent of Streets
- 93.002 Powers and duties of Street Department

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## ***SUPERINTENDENT OF STREETS***

### **§ 93.001 DEPARTMENT; SUPERINTENDENT OF STREETS.**

(A) There is hereby created a Department of Streets, which shall have general supervision of streets, sidewalks, bridges and other public ways.

(B) The Department shall be under the direction and control of the Superintendent of Streets.  
(Prior Code, § 11-311)

### **§ 93.002 POWERS AND DUTIES OF STREET DEPARTMENT.**

The Department shall:

(A) Have charge of the construction, maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways and other public ways. It shall have control of all waters flowing on the streets, sidewalks and public ways whether originating from storm, flood, drainage or irrigation waters;

(B) Keep a record of and promptly investigate all complaints or defective streets, culverts, drains, ditches, sidewalks and other public ways and, when proper, repair, replace or take such action as deemed best, and shall record the action taken on each complaint;

(C) Enforce the provisions of this chapter and all other ordinances relating to the maintenance and use of streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks and other public ways; and

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(D) Repair, or cause to be repaired, all defects coming to the Department's attention and take responsible precautions to protect the public from injuries due to such defects pending their repair.  
(Prior Code, § 11-312)

### ***CONSTRUCTION AND REPAIR OF STREETS AND SIDEWALKS***

#### **§ 93.015 CONSTRUCTION BY PERSONS.**

(A) It shall be unlawful for any person either as owner, agent, servant, contractor or employee to construct a street or sidewalk which does not conform to specification established by the Town Engineer or other authorized representatives of the town unless special permission to deviate from such specification is first obtained from the Town Council.

(B) Streets shall not be designed to have one end permanently closed. No cul-de-sacs will be permitted.  
(Prior Code, § 11-351) (Ord. 07-1, passed 3-14-2007) Penalty, see § 93.999

#### **§ 93.016 PERMIT REQUIRED; SUPERVISION.**

(A) No person, either as owner, agent, servant, contractor or employee, shall construct any permanent sidewalk without first obtaining from the Town Council permission so to do. The permit shall specify that the sidewalk to be constructed of cement, the character and quality of the cement, the consistent parts of the mixture, and the thickness of the walk.

(B) It shall be unlawful to construct a sidewalk in violation of the specifications given by a proper town official.

(C) All sidewalks shall be constructed under the inspection of the Superintendent of Streets or his or her duly authorized representative.  
(Prior Code, § 11-352) Penalty, see § 93.999

#### **§ 93.017 CONSTRUCTION OF DRIVEWAYS OR CHANGES OF CONSTRUCTION.**

It shall be unlawful for any person to construct a driveway across a sidewalk, or cut or change the construction of sidewalk, curb or gutter without first making written application and obtaining from the Town Council permission to do so. The granting of such permission shall be deemed an agreement on the part of such person to construct said driveway in accordance with specification furnished by the town.  
(Prior Code, § 11-353) Penalty, see § 93.999

#### **§ 93.018 BUILDING MATERIALS IN STREET; PERMIT.**

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It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the governing body permission for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the governing body. Any such permission may be revoked by the governing body at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the governing body, the public interest requires such revocation.

(Prior Code, § 11-354) Penalty, see § 93.999

### **§ 93.019 PLACING OR MIXING SAND OR GRAVEL ON PAVED STREET OR SIDEWALK.**

Unless permission from the Town Council has been obtained, it shall be unlawful to:

(A) Place or pile, or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete or any like substance or mixture, or allow the same to remain on any portion of any paved street or sidewalk; or

(B) Make or mix or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk.

(Prior Code, § 11-355) Penalty, see § 93.999

### **§ 93.020 OVERFLOWING OF WATER ON PUBLIC PROPERTY.**

It shall be unlawful for any person to allow water to overflow from any ditch, canal, well or irrigation stream onto the streets, sidewalks or property of the town.

(Prior Code, § 11-356) Penalty, see § 93.999

### **§ 93.021 IRRIGATION DITCHES ACROSS SIDEWALKS.**

All owners or occupants of lots in this municipality who require water from a main ditch for irrigation or other purposes shall dig ditches, erect, flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall meet such reasonable standards and specifications as may be established by the Superintendent of Streets.

(Prior Code, § 11-357) Penalty, see § 93.999

## ***SIDEWALK REGULATIONS***

### **§ 93.035 REMOVAL OF SNOW.**

(A) It shall be unlawful for the owner, occupant, lessor or agent of any property, abutting on a paved

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sidewalk to fail to remove, or have removed from such paved sidewalk, all hail, snow or sleet thereon within a reasonable time after such snow, hail or sleet has fallen. In the case of a storm between the hours of 5:00 p.m. and 6:00 a.m. such sidewalk shall be cleaned before 9:00 a.m. of the same day.

(B) It shall be unlawful for any person removing snow from the sidewalk, to deposit snow, dirt, leaves or any other material in the gutter so as to clog or prevent the free flow of water therein.  
(Prior Code, § 11-361) Penalty, see § 93.999

### **§ 93.036 PLACING TRASH OR OTHER OBSTRUCTION IN STREETS, GUTTERS, SIDEWALKS.**

It shall be unlawful for any person owning, occupying or having control of any premises to place, or permit to be placed upon or in the sidewalk, parking area, gutter or on the half of the street next to such premises:

(A) Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, ashes, tin cans or other like substances;

(B) Any wagons, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, except as expressly authorized by ordinance, without the permission of the governing body first had and obtained; or

(C) Any permanent or temporary structure, mechanism, device, vehicle or other thing of any kind or character except trees planted pursuant to the provisions of applicable ordinance.  
(Prior Code, § 11-362) Penalty, see § 93.999

### **§ 93.037 OPENINGS IN STREET.**

(A) (1) It shall be unlawful for the owner or occupant of any building having a cellar which opens upon any street or sidewalk to fail to keep the door or other covering in good repair and safe for the passage of the customary traffic on the street or sidewalk.

(2) If the owner or occupant of any such building shall neglect or refuse to repair properly any such door or covering within 24 hours after notice for the Superintendent of Streets to do so, the Superintendent shall forthwith cause such repairs to be made at the expense of the owner or occupant.

(B) It shall be unlawful to construct or maintain coal holes or other openings in streets or sidewalks, except with the special permission of the governing body, and under the direction and supervision of the Superintendent of Streets.

(Prior Code, § 11-363) Penalty, see § 93.999

### **§ 93.038 DOORS OPENING INTO STREETS.**

It shall be unlawful for any person, firm or corporation owning or having the control or management

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of any alley, road or passageway to construct or hang gates or doors to such alley, road or passageway so that the gates or doors thereto, when open, shall project outwardly more than two feet over or upon the sidewalk or beyond the property line.

(Prior Code, § 11-364) Penalty, see § 93.999

### **§ 93.039 DISCHARGE OF WATER ON STREET.**

It shall be unlawful for any person owning, occupying or having control of any premises to fail, refuse or neglect to prevent water from the roof or eaves of any house, building or other structure, or from any other source under the control of such person to be discharged upon the surface of any sidewalk.

(Prior Code, § 11-365) Penalty, see § 93.999

### **§ 93.040 CROSSING AT INTERSECTIONS.**

It shall be unlawful for any person to drive or park a self-propelled vehicle or lead, drive or ride any animal upon any sidewalk except across a sidewalk at established crossings.

(Prior Code, § 11-366) Penalty, see § 93.999

### **§ 93.041 BUSINESS TO KEEP SIDEWALK CLEAN.**

It shall be unlawful for any owners or occupants of any place of business to refuse, neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of 9:00 a.m.

(Prior Code, § 11-367) Penalty, see § 93.999

### **§ 93.042 PLACING GOODS ON SIDEWALKS FOR SALE OR SHOW.**

No goods, wares or merchandise shall be placed, maintained or permitted for sale or show in or on any parking area, street or sidewalk beyond two feet from the front line of the lot, without first obtaining the written approval of the governing body. Such approval shall be granted only when such sale or show shall be a promotional activity not exceeding 48 hours and when participated in by a majority of firms seeking approval in their business areas. The governing body's written approval shall specifically provide that no goods, wares or merchandise shall be placed in such a manner as to leave less than a six-foot passageway for pedestrians.

(Prior Code, § 11-368) Penalty, see § 93.999

### **§ 93.043 PLAYING ON SIDEWALKS.**

Every person who obstructs the sidewalk or street by playing any game or engaging in any activity which obstructs the free travel thereon is guilty of an infraction.

(Prior Code, § 11-370) Penalty, see § 93.999



**§ 93.044 CONGREGATING ON SIDEWALKS.**

It is an infraction for any person or persons to congregate about or upon any sidewalks, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere and by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises.

(Prior Code, § 11-371) Penalty, see § 93.999

***EXCAVATIONS***

**§ 93.055 PERMIT FRANCHISE REQUIRED.**

(A) No person shall make an excavation in any street, lane or alley, or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the Superintendent of Streets or other authorized representative of the town.

(B) No person shall excavate any sidewalk without first obtaining a permit from the Superintendent of Streets or other authorized personnel.

(C) Nothing contained in this subchapter shall be construed to waive the franchise required for any person by the ordinances of this town or laws of the state.

(Prior Code, § 11-381) Penalty, see § 93.999

**§ 93.056 EXCLUDED EXCAVATION.**

Excavations of any kind in town streets in projects designed, contracted for and inspected by the town engineer or other authorized personnel of the town are excluded from the provisions of this subchapter.

(Prior Code, § 11-382)

**§ 93.057 SUBJECT EXCAVATIONS.**

Excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits, and all other excavations for any other purpose within the street rights-of-way of the municipality or in other public places are subject to the provisions of this subchapter.

(Prior Code, § 11-383)

**§ 93.058 PREPARATION.**

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The pavement, sidewalk, driveway or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard-surfacing. An undercut bevel at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be removed immediately from the site of the work.

(Prior Code, § 11-384) Penalty, see § 93.999

### § 93.059 BACKFILL.

(A) Materials for backfill will be of select nature. All broken concrete, pet, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over eight inches loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to ensure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular free draining materials will be permitted.

(B) The density (dry) of the backfill under pavements, sidewalks, curbs or other structures will be not less than that existing prior to excavation.

(C) The fill shall be restored and placed in a good condition which will prevent settling.

(Prior Code, § 11-385) Penalty, see § 93.999

### § 93.060 RESTORATION OF SURFACES.

(A) *General.* All street surfacing, curbs, gutters, sidewalks, driveways or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the governing body, in accordance with the specifications contained herein governing the various types of surfaces involved.

(B) *Protection of paved surfaces.* In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.

(C) *Time.* In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five days from the date of completion of the backfill except for periods:

- (1) When permanent paving material is not available;
- (2) When weather conditions prevent permanent replacement; or
- (3) When an extension of time is granted by the Superintendent of Streets.

(D) *Temporary repair.* If temporary repair has been made on paved street with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible. (Prior Code, § 11-386) Penalty, see § 93.999

**§ 93.061 RESTORING BITUMINOUS.**

Concrete or asphalt street surfaces.

(A) *Temporary grade surface.* Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches below the bottom of the bituminous or concrete surface. Normally, this will require nine inches of gravel for bituminous surfaces, 12 inches of gravel for concrete, and concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the Inspector until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for gradings:

Passing 1-inch sieve	100%
Passing 3/4-inch sieve	85%-100%
Passing No. 4 sieve	45%-65%
Passing No. 10 sieve	30%-50%
Passing No. 200 sieve	5%-10%

(B) *Bituminous surface.* The exposed edges of existing pavement shall be primed with Type MC-1 bituminous material. The type, grade and mixture of the asphalt to be used for street surface replacement shall be approved by the Superintendent of Streets. The thickness shall be equal to the adjacent surface thickness but not less than three inches. The complete surface shall not deviate more than one-half inch between old and new work.

(Prior Code, § 11-387)

**§ 93.062 CONCRETE SURFACES.**

The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six inches thick. The mixing, cement, water content, proportion, placement and curing of the concrete will be approved by the Superintendent of Streets. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of 28 days.

(Prior Code, § 11-388)

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### **§ 93.063 CONCRETE BASE, BITUMINOUS WEARING SURFACES.**

This type of surfacing shall be constructed as above described.  
(Prior Code, § 11-389)

### **§ 93.064 GRAVEL SURFACES.**

Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in § 93.062, except that the gravel shall be a minimum of one inch more than the thickness of the existing gravel.  
(Prior Code, § 11-390)

### **§ 93.065 PROTECTION OF PUBLIC DURING EXCAVATION PROJECT.**

Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all the excavator's equipment is removed from the site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares and other devices. Police and fire departments shall be notified at least 24 hours in advance of any planned excavation requiring street closures or detour.  
(Prior Code, § 11-391) Penalty, see § 93.999

### **§ 93.066 RELOCATION AND PROTECTION OF UTILITIES.**

An excavator shall not interfere with any existing utility without the written consent of the governing body and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by this town or private enterprise, shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus, which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along or across the work. In case any of the pipes, conduits, poles, wires or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this subchapter that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation which the permittee accepts upon acceptance of an excavation permit. This town need not be made a party to any action because of this subchapter. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

(Prior Code, § 11-392)

**§ 93.067 JETTING PIPE.**

Jetting pipe by means of water under pressure, or compressed air, is permitted only when approved by the town.

(Prior Code, § 11-393)

**§ 93.068 INSPECTION AND ACCEPTANCE.**

(A) In order to insure proper backfill and restoration of surface, the permittee shall deposit a surety bond or cash deposit with the Clerk payable to this town, except that a public utility operating or using any of the streets under a franchise from this town will not be required to furnish such bond, providing such franchise obligates the holder thereof to restore the streets and to hold this town harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation and restoration operations under such franchise. The required surety bond must be:

- (1) With good and sufficient surety;
- (2) By a surety company authorized to transact business in the state;
- (3) Satisfactory to the Municipal Attorney in form and substance;

(4) Conditions upon the permittee's compliance with this subchapter in order to secure and hold this town and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the municipality, the governing body or any town office may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee; and

(5) Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the town, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.

(B) The amount of the surety bond or cash deposit shall be established by resolution and may be changed from time to time, but until such resolution is passed the amount of surety or cash deposit shall be \$500 and \$100 for each foot of street the permittee shall excavate.

(Prior Code, § 11-394)

**§ 93.069 APPLICATION FOR STREET EXCAVATION PERMIT.**

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(A) It shall be unlawful for any person to break, excavate, tunnel, undermine or in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an excavation permit thereof from the Clerk. Any public utility regulated by the state or holding a franchise from this town which, in the pursuit of its calling has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the town to cover all excavations such utilities may make within the streets of the town.

(B) All permits shall be subject to revocation and the town may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this subchapter.

(C) Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the town is notified as soon as practicable and a permit is applied for upon the next working day following the emergency.

(Prior Code, § 11-395) Penalty, see § 93.999

### § 93.070 NAMES OF STREETS.

The streets of the town shall be and the same are hereby named and designated as follows, to wit: the street running north and south and immediately west of the initial point of all surveys shall be known as Main Street, and each street east of and running parallel to said Main Street, is hereby named and designated by the ordinal number of its location east of said Main Street and adding the word "East" to each number and the like, as "-East," "East Second" and the like; each street west of and running parallel to said Main Street is hereby named and designated by the ordinal number of its location west of said Main Street and adding the word "West" to each number, as "-West," "West Second" and the like. The street running east and west and being the third street north of said initial point shall be known as Center Street, and each street south and running parallel to said Center Street, is hereby named and designated by the ordinal number of its location south of said Center Street and adding the words "south" to each number as "-South," "South Second," "South Third" and the like; and each street north and running parallel to said Center Street is hereby named and designated by the ordinal number of its location north of said Center Street and adding the words "north" to each number as "-North," "North second" and the like.

(Prior Code, § 11-396)

### *STREET ADDRESSES AND SIGNS*

### § 93.085 HOUSE NUMBERS REQUIRED.

(A) Every home, building, lot, resident or parcel of real property within the limits of the town shall be assigned a street number for identification and location purposes.

(B) Every owner of said properties shall be required henceforth to display in a prominent location on the site of the property or structure facing the closest adjacent public street, and not more than 40 feet

## Streets, Sidewalks and Public Ways

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from the right-of-way of said public street the house number assigned to that property.  
(Prior Code, § 11-401) Penalty, see § 93.999

### **§ 93.086 FAILURE TO PAY; LIEN.**

(A) If any property owner fails to display his or her identification number as required in the foregoing action, the town may through its designated agent display such number and charge any cost of said display against the owner of the property.

(B) Said charge shall become a lien against the property which may be recorded with the County Recorder's office and collected in the fashion of special improvement district assessments.  
(Prior Code, § 11-402)

### **§ 93.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Failure to so display an assigned house number (§ 93.085) shall constitute a misdemeanor and may be punished upon conviction by a fine of not more than \$500 or six months in the county jail, or both such fine and imprisonment.  
(Prior Code, § 11-401)