

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS
- 91. STREETS AND SIDEWALKS; TREES
- 92. NUISANCES; JUNK VEHICLES AND APPLIANCES
- 93. FIREWORKS; FIRE PREVENTION
- 94. LITTERING
- 95. PARKS AND RECREATION
- 96. A911@ EMERGENCY TELEPHONE SERVICES
- 97. NOISE CONTROL

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Definitions
- 90.02 Anti-rabic provisions
- 90.03 Number of dogs and cat limited
- 90.04 Running at large prohibited
- 90.05 Keeping of vicious animals, wild animals and livestock prohibited
- 90.06 Keeping of nuisance animals prohibited
- 90.07 Police to take possession; entry on private property
- 90.08 Impounding
- 90.09 Interference with police officers and other empowered officials
- 90.10 Enforcement; authority of Council

Dangerous Animals

- 90.30 Definitions
- 90.31 Responsibility of all animal owners
- 90.32 Complaint; hearing
- 90.33 Civil liability
- 90.34 Permission to kill dogs attacking human beings
- 90.35 Pit bull terriers prohibited

- 90.99 Penalty

GENERAL PROVISIONS

' 90.01 DEFINITIONS.

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

AABANDON.@ Any animal left more than 48 hours without a person checking on the condition of the animal(s) and/or providing food and water. Any animal left on private property without the owner's consent or deserted or dumped on public property or roadways.

AANIMAL.@ Any live vertebrate creature.

AANIMAL CONTROL.@ The Kenton County Dog Authority which is an authority made up of cities in the county to control animals within city boundaries.

AANIMAL CONTROL AUTHORITY CHAIRPERSON.@ The parson elected by the Kenton County Dog Authority to over see its daily operation.

AANIMAL CONTROL OFFICER.@ Any person designated by the Kenton County Dog Authority who is qualified to perform such duties under the laws and ordinances of the Commonwealth of Kentucky and the designated

city. An Animal Control Officer shall be a law enforcement officer for the purposes of this chapter only.

AANIMAL SHELTER.@ Any premises operated or approved for operation by the Kenton County Fiscal Court for the purpose of impounding and caring for animals held under the authority of this chapter.

ACAT.@ Any member of the feline family, six months of age or over, male or female.

ACOMMERCIAL ANIMAL ESTABLISHMENT.@ Any pet shop, boarding or breeding kennel grooming facility, auction, patting zoo, zoological park, circus, performing animal exhibit, or any person engaged in the business of breeding, buying, or selling at retail or wholesale, any species of animal for profit.

ADAY.@ A 24-hour period shall constitute a day.

ADOG.@ Any member of the canine family, six months of age or over, male or female.

ADOMESTIC ANIMAL.@ Such animals as are habituated to live in or about the habitations of human beings, and which are kept, cared for, sheltered, fed, or harbored for use as a pet or as a source of food, raw materials or income.

AEXOTIC ANIMAL.@ Any animal not indigenous to the United States.

AGRANDFATHERED FARM.@ Any tract of land, with common ownership at the time of adoption of this chapter, consisting of at least four acres.

AHUMANE SOCIETY.@ Shall mean any person or organization operating from a fixed site and taking in or accepting stray or unwanted animals.

AIMPOUNDED.@ Having been received into the custody of Kenton County Dog Authority or any authorized representative thereof.

ALIVESTOCK.@ Cattle, sheep, swine, goats, horses or any other animals of the bovine, ovine, porcine, caprine, or equine species.

AOWNER.@ Any person(s), corporation or other entity owning, keeping, harboring or sheltering one or more animals.

APET.@ Domesticated animal kept for pleasure rather than utility.

APUBLIC NUISANCE.@ Any animal(s) which:

- (1) Molests passers-by or passing vehicles;
- (2) Attacks people or other animals;
- (3) Damages public or private property;
- (4) Is repeatedly at large;

(5) Makes noise in an excessive, continuous or untimely fashion; or

(6) Repeatedly urinates or defecates on property not belonging to the animal's owner or creates unsanitary conditions.
(Ord. 12-1-95, passed 2-3-96)

' 90.02 ANTI-RABIC PROVISIONS.

(A) It shall be the duty of every person who owns or harbors a dog or cat in the city to have such dog or cat inoculated with anti-rabic vaccine by a veterinarian during the months of January through August of each year. Failure to have such dog or cat so inoculated during the period shall subject each person to the penalty in ' 90.99 of this chapter.

(B) Every owner or harborer of a dog or cat, upon obtaining the tag from a veterinarian, shall immediately attach the same to the collar or harness of the dog or cat to be worn by the dog or cat at all times. The certificate obtained from the veterinarian shall be retained by the owner or harborer of the dog or cat for inspection by officials of the Police Department or other empowered officials of the city.

(C) The anti-rabic provisions shall not apply to dogs or cats kept by regularly chartered medical colleges or other educational or scientific institutions to be used for scientific purposes.
(Ord. 12-1-95, passed 2-3-96) Penalty, see ' 90.99

' 90.03 NUMBER OF DOGS AND CAT LIMITED.

(A) It shall be unlawful to keep at any one residence within the city limits more than five dogs or cats, or any combination thereof with the exception that the owner or person who has custody of a dog or cat may retain the puppies or kittens born of the dog or cat which exceed the permissible numbers set forth in this chapter for a period of 12 weeks after the birth of the animals. Any retention of dogs or cats in excess of the number specified in this chapter after this 12-week period will constitute a violation of this chapter.

(B) Any person having custody of dogs or cats in excess of the number permitted by this chapter shall have 30 days from the effective date of this chapter in which to reduce the number of dogs and cats in their custody to comply with this chapter.
(Ord. 12-1-95, passed 2-3-96) Penalty, see ' 90.99

' 90.04 RUNNING AT LARGE PROHIBITED.

(A) Every owner, harborer or person having the custody, control or possession of any dog or cat, shall keep such dog or cat restrained or confined to the premises and property of the owner, harborer or custodian, except as hereinafter provided.

(B) No owner, harborer or person having the custody, control or possession of any dog or cat shall permit, allow or suffer such dog or cat:

(1) To run or be at large; or

(2) To go about or on the premises or property of any other person within the city without the permission of such other person.
(Ord. 12-1-95, passed 2-3-96) Penalty, see ' 90.99

' 90.05 KEEPING OF VICIOUS ANIMALS, WILD ANIMALS AND LIVESTOCK PROHIBITED.

(A) The keeping of vicious animals and large wild animals is prohibited. No person shall keep any vicious animal and wild animal, whether owned by him, or not, on his property within the city.

(B) The foregoing section is a necessary control on the unrestrained activities of vicious animals and large wild animals which threaten the safety and pleasantness of streets, parks, sidewalks, yards and all areas of the city; and lack of knowledge or lack of intent is not a defense to a violation thereof.

(C) The keeping of livestock is prohibited. No person shall keep any livestock, whether owned by him, or not, on his property within the city, except grandfathered farms.
(Ord. 12-1-95, passed 2-3-96) Penalty, see ' 90.99

' 90.06 KEEPING OF NUISANCE ANIMALS PROHIBITED.

No owner, harborer or person having the custody, control or possession of any dog or cat shall permit such dog or cat to disturb the peace and quiet of the neighborhood by reason of their howling, barking and whining, the stench they cause, unsanitary conditions in which they are kept, or their disturbing of people in the reasonable use and enjoyment of property where any of these factors cause annoyance, discomfort or injury to the health and welfare of persons in the neighborhood.
(Ord. 12-1-95, passed 2-3-96) Penalty, see ' 90.99

' 90.07 POLICE TO TAKE POSSESSION; ENTRY ON PRIVATE PROPERTY.

(A) Any and all dogs or cats found at large within the city in violation of this chapter, and all unlicensed dogs or cats shall be taken into custody by the Police Department and/or police officers, Animal Control Officers or other empowered officials of the city.

(B) For the purposes of this chapter, police officers of the city, Animal Control Officers or other empowered officials, shall have specific authority to enter upon private property for the purpose of inspecting or checking dogs or cats to determine if they are properly licensed or abandoned and for the purpose of taking into custody any unlicensed dog or cat, any dog or cat found at large within the city, abandoned dog or cat or any dog or cat found upon the property of anyone other than the owner of the dog or cat.

(C) Police officers, Animal Control Officers or other empowered officials may use any reasonable means and force necessary to take control and possession of dogs or cats found in violation of this chapter, including, but not limited to, using tranquilizer guns or devices. Police, Animal Control Officers or other empowered officials shall not be liable, civilly or criminally, for dogs or cats that unintentionally are injured or killed in the process of taking control or possession of the animals as provided in this section.
(Ord. 12-1-95, passed 2-3-96)

' 90.08 IMPOUNDING.

(A) All dogs or cats taken into custody by police, Animal Control Officers or other empowered officials as provided in ' 90.07 of this section shall be impounded at the County Animal Shelter, except as provided in division (B) of this section.

(B) If the dog or cat is found on or off the premises of its owner, but is unlicensed or at large, the police officer, Animal Control Officers or other empowered officials may, in their discretion, not impound the dog or cat, but in lieu thereof, issue a citation to the owner for owning an unlicensed dog or cat or permitting the dog or cat to run at large (Citations can be city or state).

(C) All dogs or cats impounded shall be handled and/or disposed of by the County Animal Shelter as provided by the regulations of that agency, by state law or by county regulations, except that no dog or cat impounded by the police, Animal Control Officers or other empowered officials of the city shall be released to its owner without written authority from the Police Department or other empowered officials of the city.

(D) On written complaint of any person that a dog or cat is rabid, or that a dog or cat has bitten or attacked a person, the dog or cat shall be seized and impounded forthwith. The District Court shall hold a hearing on the written complaint and if the court shall determine in its sound discretion that the aforementioned dog or cat is mad or has in fact attacked a person, then and in that event, the Judge may order the dog or cat to be destroyed and examined by a competent scientist or veterinarian or impounded for observation for a designated period of time, or make any other reasonable order concerning the dog or cat.

(E) Any and all expenses incurred by the city in keeping and housing of any dog or cat after being so seized and impounded shall be chargeable to the owner or keeper of the dog or cat.
(Ord. 12-1-95, passed 2-3-96)

' 90.09 INTERFERENCE WITH POLICE OFFICERS AND OTHER EMPOWERED OFFICIALS.

It shall be unlawful for any person to interfere with, molest, hinder or prevent police officers or other empowered officials of this city discharging their duties as prescribed in this chapter.
(Ord. 12-1-95, passed 2-3-96) Penalty, see ' 90.99

' 90.10 ENFORCEMENT; AUTHORITY OF COUNCIL.

The City Council is empowered to authorize the entering into an approved compact with other cities in the enforcement of the Animal Control ordinance or in the alternative may enter into an employment contract with either an organization or an individual to enforce the provisions of this chapter.

(Ord. 12-1-95, passed 2-3-96)

DANGEROUS ANIMALS

' 90.30 DEFINITIONS.

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

ADANGEROUS ANIMAL.@

(1) Any animal which constitutes a physical threat to human beings or other domestic animals by virtue of a known or displayed propensity to endanger by pursuing, wounding or attacking any other domestic animal or human being, whether or not such dangerous animal bears any license tag required by law. Exceptions: Any animal shall not be deemed dangerous if:

(a) It bites, attacks or menaces anyone assaulting its owner, or any person or other animal that has tormented or abused it;

(b) It is otherwise acting in defense of an attack from a person or other animal upon the owner or other person; or

(c) It is protecting or defending its young or other domestic animal.

(2) Any animal trained, owned or harbored for the purpose, primarily or in part, of animal fighting.

(3) Any animal that has been trained to attack persons independently or upon oral command, excepting animals owned by public law enforcement agencies.

(4) Any dog which is registered with the American Kennel Club as either an American Staffordshire Terrier or Staffordshire Bull Terrier; is registered with the united Kennel Club as an American pit Bull Terrier; conforms to either of the Standards of the American Kennel Club for the American Staffordshire Terrier or Staffordshire Bull Terrier which were published, with an example photograph, in the 15th edition of the Complete Dog Book in 1977; or has predominant physical characteristics which are those of either the American Staffordshire Terrier or the American Staffordshire Bull Terrier indicated in the standards of the American Kennel Club which were published with an example photograph in the 15th edition of the Complete Dog Book in 1977.

(B) Dangerous Animal Officer. The Mayor or his or her duly appointed designee, shall take complaints of an aggrieved party, on a form prescribed by the city.
(Ord. 8-2-01, passed 8-2-01)

' 90.31 RESPONSIBILITY OF ALL ANIMAL OWNERS.

(A) It shall be the duty of every owner of any animal, or anyone having an animal in his or her possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property, and animals from injuries or damages which might result from their animal's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness or ferocity.

(B) In the event the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to insure that all provisions of this subchapter are complied with.

(C) It shall be the duty of every owner of any animal, or anyone having any animal in his or her possession or custody, to insure that the animal is kept under restraint and that reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor or custodian, and that it is securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump or otherwise escape on its own volition. Such enclosure must be securely locked at any time the animal is left unattended; or it must be securely and humanely restrained by chain, cable and trolley, or other tether of sufficient strength to prevent escape; or it must be on a leash under the control of a competent person.

(D) Whenever outside of its enclosure as provided herein, but is on the owner's property, a dangerous animal must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent its escape. No dangerous animal shall be chained, tethered or otherwise tied to any inanimate object, such as a tree, post or building outside of its own enclosure as provided herein. If the owners of dangerous animals maintain their animal out-of-doors, a portion of their property must be fenced with a perimeter or area fence. Within this perimeter fence, the dangerous animal must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or fence must have secure sides, a secure top attached to all sides, and the sides must either be buried two feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked.

(E) It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under restraint and in control at all times while the animal is off the real property limits of the owner, possessor or custodian. For purposes of this section, the animal is deemed under control when it is securely

confined within a vehicle parked or in motion; it is properly confined within a secure enclosure with the permission of the owner of the property where the enclosure is located; or it is securely restrained by a leash or other device held by a competent person.

(F) Except when being transported in and securely confined within a vehicle, no dangerous animal shall be permitted off the property of his or her owner except when it is attended by its owner; is restrained by a secure collar and leash (not to exceed six feet in length), both collar and leash to be of sufficient strength to prevent escape; and muzzled by sufficient means to prevent its biting other persons or domestic animals.

(G) (1) In the event that any law enforcement officer has probable cause to believe that a dangerous animal is being harbored in violation of this subchapter he or she may:

(a) Order the violation immediately corrected and cite the owner or keeper to appear in court for the violation; or

(b) If the violation cannot be immediately corrected and the animal is posing an imminent serious threat to human beings or other domestic animals, the animal may be seized and impounded, in which case the owner or keeper will be cited to appear in court for the violation. At the owner's request and expense, such impoundment may be at a veterinarian or licensed kennel of the owner's choosing. If the court rules that the animal is not dangerous as defined, it will be released to the owner. If the court rules that it is dangerous as defined, the animal will be released to the owner after payment of any fees and penalties, and upon presentation of proof that the animal will now be kept restrained or confined as specified in this subchapter.

(2) If the owner or keeper of any alleged dangerous animal impounded for violation of this subchapter presents proof that the animal will now be kept in compliance with this subchapter, the animal will be released upon payment of any fees and penalties due.

(3) If the owner or keeper of an alleged dangerous animal fails to either provide proof that the animal will now be kept restrained or confined in compliance with the provisions of this subchapter, or fails to reclaim it after impoundment, and if it cannot be adopted by someone providing proof that it will be kept restrained or confined as specified in these provisions, it will be humanely euthanized.

(H) All owners, keepers or harborers of any guard dog or dangerous animal shall display in a prominent place on their remises, and at each entrance or exit to the area where such animal is confined a sign easily readable by the public using the words "Beware of Dangerous Animal" or "Beware of Dog."

(Ord. 8-2-01, passed 8-2-01) Penalty, see ' 90.99

' 90.32 COMPLAINT; HEARING.

(A) Any person who has been pursued or attacked by an allegedly dangerous animal, or anyone on behalf of such person, may make a complaint before the Dangerous Animal Officer or district court, charging the owner, possessor or custodian of such animal with harboring a dangerous animal. A copy of such complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil cases, or by any law enforcement officer of the city with a return receipt, directing such person to appear before the district court for a hearing of such complaint at a time fixed.

(B) If upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner, possessor or guardian of the animal in question, and that such animal has without cause, pursued, wounded or attacked a human being or other domestic animal, the court shall declare such animal a dangerous animal and order the owner, possessor or guardian to henceforth keep such dangerous animal securely confined as set forth in this subchapter, and impose the penalties set forth in ' 90.99.

(C) If a subsequent complaint is filed against the same owner, possessor or guardian for an animal previously determined or found to be a dangerous animal, and the court finds the person so charged is violation hereof, the court shall order the owner, possessor or guardian of said dangerous animal to immediately remove the animal from the city or order the animal humanely euthanized.
(Ord. 8-2-01, passed 8-2-01)

' 90.33 CIVIL LIABILITY.

Nothing in this subchapter shall be construed to limit or prohibit application of any other public law or governmental regulation. Further, nothing in this subchapter shall in any manner limit the civil liability of any owner, possessor or guardian of any animal to any aggrieved person for damages.
(Ord. 8-2-01, passed 8-2-01)

' 90.34 PERMISSION TO KILL DOGS ATTACKING HUMAN BEINGS.

Any person may kill a dog that he sees attack a human being, regardless of whether or not the dog is licensed. This does not apply to police dogs working in the line of duty.
(Ord. 8-2-01, passed 8-2-01)

' 90.35 PIT BULL TERRIERS PROHIBITED.

(A) It is hereby determined that pit bull terriers have inherently vicious and dangerous propensities and are potentially hazardous and are reasonably dangerous to the health, safety and welfare of the citizens, residents, and inhabitants of the city.

(B) The ownership, location, maintenance, keeping, harboring or use of pit bull terriers in the city, is hereby declared to be a public nuisance.

(C) No person shall cause, permit, promote, aid, assist, encourage or engage in the ownership, location, maintenance, keeping, harboring or use of pit bull terriers in the city, unless such person is a veterinarian licensed by the Commonwealth of Kentucky and engaged in the business thereof at the address indicated in the occupational license issued therefore by the city.

(D) A pit bull terrier is any dog as defined or described in ' 90.30 (A)(4) of the Official Code of Ordinances of the City of Bromley.
(Ord. 9-1-05, passed 10-5-05)

' 90.99 PENALTY.

(A) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not less than \$10 and not more than \$500.

(B) Each day that the violation of this chapter continues shall be a separate and distinct offense and punishable as such.

(C) Any person found guilty of violating any of the provisions of ' 90.31 shall be guilty of a Class A Misdemeanor, which is punishable by a penalty up to a \$500 fine and up to one year in jail.
(Ord. 12-1-95, passed 2-3-96; Am. Ord. 8-2-01, passed 8-2-01)

CHAPTER 91: STREETS AND SIDEWALKS; TREES

Section

Street Openings, Excavations and Restoration

- 91.01 Street opening permit required
- 91.02 Work to be performed in accordance with permit
- 91.03 Restoration work
- 91.04 Application and fee
- 91.05 Emergency street openings
- 91.06 Warranty of permit holder
- 91.07 Traffic maintenance and work specifications
- 91.08 Driveway construction

Road and Bridge Projects

- 91.15 Public hearing required
- 91.16 Notice requirements
- 91.17 Public may testify; effect of testimony
- 91.18 Hearing to be held prior to construction
- 91.19 Separate hearing for each project not required
- 91.20 Exemptions from hearing requirement

Obstructions

- 91.30 Unloading on street or sidewalk
- 91.31 Street and sidewalk obstruction
- 91.32 Materials on street or sidewalk
- 91.33 Removal of ice and snow

Trees

- 91.40 Prohibition on planting trees
- 91.99 Penalty

STREET OPENINGS, EXCAVATIONS AND RESTORATION

' 91.01 STREET OPENING PERMIT REQUIRED.

Any person or utility company desiring to open or otherwise disrupt the surface of any public street, sidewalk or any area within publicly dedicated right-of-way under the ownership and/or maintenance of the city, shall first obtain a street opening permit from the city prior to commencing said work. A street opening permit application, on a form provided by the city, shall be completed and submitted to the Mayor, or his or her designee, prior to the performance of any work. The Mayor, or his or her designee, shall promptly review the submitted street opening permit application and upon determination that all requisite information has been submitted, approve and issue the permit without undue delay.

(Ord. 2-1-06, passed 3-1-06)

' 91.02 WORK TO BE PERFORMED IN ACCORDANCE WITH PERMIT.

The issuance of a street opening permit by the city shall obligate the permit holder to perform all work in accordance with the submitted permit application. The permit holder, during the course of street opening operations, shall be responsible to properly secure, maintain and mark the area sufficiently to warn the public and avoid any safety hazard to vehicles and pedestrians. The permit holder shall be responsible for the defense of any claim from any individual regarding personal injury and/or damage to private property resulting from the work area covered by the street opening permit.
(Ord. 2-1-06, passed 3-1-06)

' 91.03 RESTORATION WORK.

All restoration work related to the street opening permit shall be completed in a prompt and expeditious manner to minimize the amount of time any portion of the public right-of-way area is disturbed. If permanent restoration, in accordance with specifications as defined herein, does not occur immediately upon completion of work, the permit holder shall be required to complete temporary restoration of all disturbed area in accordance with city specifications. All permanent restoration work shall be completed within 30 days from the date of the permit, or promptly upon the completion of utility work, whichever is later, during the time period of April 1st through November 30th. During the time period of December 1st through March 31st, permanent restoration shall be completed in a timely manner, subject to appropriate weather conditions. A final inspection of all permanent restoration work is required by the Mayor, or his or her designee.
(Ord. 2-1-06, passed 3-1-06)

' 91.04 APPLICATION AND FEE.

(A) Each application shall be accompanied with payment of a street opening permit application fee of \$15. Utility companies shall have the option to pay fees on a semi-annual basis by separate invoice from the city. The fee shall be doubled (\$30) for any applicant who commences with the opening of any street without first having obtained the required permit. In addition, each application shall require the submission of a performance guaranty, in the form of cash, certified check, performance bond, irrevocable letter of credit or similar instrument, which shall serve as a guarantee that all restoration work will be completed by the permit holder in accordance with the terms and provisions of ' ' 91.01 through 91.07. (The performance guarantee requirement shall not apply to permits encompassing sod-only cuts and other activity in unimproved areas of the public right-of-way). The amount of the performance guaranty shall be based upon the size/area of the street opening permit in accordance with the following table:

Size of permit area	Amount of performance guaranty
50 square feet or less	\$12 per square foot
Greater than 50 square feet	\$10 per square foot

(B) Single performance guarantee - As an option to individual performance guarantees identified above and submitted with each permit, utility companies may submit a single guarantee, in the amount of \$5,000.00, to cover all permit activity during the course of any calendar year.

(C) If the exact amount of disturbed area is not available or unknown upon submission of the street opening permit, the applicant may estimate the approximate size or area of the permit and submit a corresponding performance guaranty. Utility companies, contractors and other persons who make multiple openings within the public right-of-way area during the course of a year may post a single performance guaranty with the city at the beginning of each year, based upon the prior year's activity or estimate for the upcoming year.

(D) Upon the completion of permanent restoration of a street opening, the Mayor, or his or her designee, shall inspect all finished work to ensure conformance with applicable city specifications. If restoration work is accepted by the city, the performance guaranty shall be promptly released and returned to the permit holder. If the restoration work is determined to be noncompliant with city specifications, the Mayor, or his or her designee, shall notify the permit holder, in writing, of the specific deficiency in restoration work. A second inspection shall be performed in 30 days by a city representative to determine if the reported deficiency has been corrected. If a deficiency still exists, the Mayor, or his or her designee, shall issue a final written notice to the permit holder advising that if restoration work compliance is not completed within ten days the city shall order the work completed at the cost of the permit holder through application of the performance guaranty and the permit holder shall forfeit any and all rights to the performance guaranty, or portion of said performance instrument if an annual guaranty has been posted. Any dispute or disagreement regarding compliance with the terms and provisions of ' 91.01 through 91.07 may be submitted to the City Council, in writing, for review and consideration.

(Ord. 2-1-06, passed 3-1-06)

' 91.05 EMERGENCY STREET OPENINGS.

Notwithstanding the provisions of ' 91.01 through 91.07, emergency street openings by utility companies and other persons shall be permitted when emergency repair of a utility system is warranted due to breakages, service disruption and safety considerations. Any person performing an emergency street opening shall promptly, upon the next regular business day that the city offices are open for business, complete and submit a street opening permit application along with the required fee and performance guaranty. All other provisions of ' 91.01 through 91.07 shall apply to emergency street opening work and restoration requirements.

(Ord. 2-1-06, passed 3-1-06)

' 91.06 WARRANTY OF PERMIT HOLDER.

All completed restoration work performed in conjunction with a street opening permit shall be warranted by the permit holder for a period of one year from the date of acceptance by the city.
(Ord. 2-1-06, passed 3-1-06)

' 91.07 TRAFFIC MAINTENANCE AND WORK SPECIFICATIONS.(A) Traffic maintenance.

(1) The permittee shall maintain traffic through the project at all times in conformance with Kentucky Transportation Cabinet requirements. The contractor shall adequately mark, through the use of barrels, flashing lights, portable gates and/or other devices approved the Mayor, or his or her designee, the limits of the project area and those areas of the site which are temporarily closed to traffic.

(2) During the course of the normal working day, the permittee shall insure the safety of the public by providing a sufficient number of flaggers to assist the traffic flow through the construction area. If, at the completion of the normal working day, any trench for utility construction has not been completely backfilled and restored, a temporary cover properly secured, such as a metal plate or another approved device, shall be placed over the portion of the trench remaining open. Improperly secured temporary covers requiring emergency service by the city shall be billed directly to the public utility.

(3) The permittee shall notify the residents and businesses at least 48 hours in advance of when their drives will be blocked during construction, except during emergency repair work. If business property is involved, an alternate access must be provided if blockage exceeds one hour, except during emergency repair work. Length of residential driveway closures shall be kept to a minimum.

(B) Restricted working hours. Unless a cut must be made in an "emergency" situation, Bromley streets have restricted working hours from 7:00 a.m. - 6:00 p.m. Approval is necessary for any deviation.

(C) Tunneling, trenching, backfilling and restoration.(1) Tunneling.

(a) All streets are to be bored or tunneled unless otherwise approved by the Mayor, or his or her designee.

(b) Tunnelling is often necessary where pipe or conduit passes under curb, or other underground facilities. The permittee shall not do any tunneling except by permission of the Mayor, or his or her designee. Where tunneling has been resorted to, the permittee shall bed the pipe or conduit as specified in "backfilling and restoration" in division (3) below. The remainder of the space from top of this fill to the roof of the tunnel shall be completely filled with 1:4:8 concrete

of suitable consistency, thoroughly tamped to fill the entire space, and to afford a rigid support for the tunnel roof for its entire area. The complete backfilling of the tunnel shall be performed to pass the approval of the Mayor, or his or her designee.

(c) In the installation of small service pipes, it is suggested that the pipe be jacked through or that a hole of sufficient size be bored. In such cases, charge for inspection and issuance of permit only will be made for that portion of street over services installed.

(2) Trenching (including utility repairs).

(a) Whenever culverts, sewers, manholes, manholes, valve chambers, catch basin connections, water mains, gas pipe, electric conduits, or house connections thereto, or any type of subsurface facilities are exposed in excavating, the permittee shall, at his or her own expense, protect them from damage.

(b) The length, width, and location of the trench or street cut, also the manner in which the work is done, shall be under the direction of the Mayor, or his or her designee. Every precaution shall be taken to safeguard the work, and to inconvenience the public as little as possible.

(c) The permittee shall carefully saw cut and remove the paving and base course materials and store them in piles separated from the excavated earth. Excavated material shall be placed so as not to obstruct gutters or drains and in such manner as will cause minimum inconvenience to the public. If necessary, temporary covers for gutters shall be installed to insure adequate drainage. In special cases, it may be necessary to remove part or all of the excavated material from the street.

(d) Openings shall be properly sheeted and braced where necessary to prevent caving, slipping, or cracking of sides. Sheeting and bracing used to support the sides of the opening shall be carefully removed as the backfilling of the trench progresses, but if considered, by the Mayor, or his or her designee, necessary for the protection of the banks, the sheeting and bracing shall be cut off two feet below the surface of the subgrade and left in place. If pavement along the sides of the opening is, or becomes undermined and unsupported, permittee shall, at his or her own cost and expense, break down and remove the undermined pavement and the foundation thereof and shall also remove loose earth and replace with earth properly compacted or low strength mortar backfill in the manner provided under "backfilling and restoration" in subparagraph (3) below.

(3) Backfilling and restoration.

(a) Specifications. Backfill and restoration of pavement and sod areas shall conform to the following specifications:

1. Low-strength mortar backfill material. Description. This work shall consist of the placement of a flowable mixture of portland cement, fly ash and sand for backfilling conduits under public roadways. Materials shall be:

- a. Cement 801.01.
- b. Fly ash shall meet ASTM C-618.

c. Fine aggregate shall be natural sand or sand manufactured from stone, gravel, or air-cooled slag. The gradation of the sand shall meet the requirements of 804. The sand shall be fine enough to stay in suspension in the mixture to the extent required for proper flow. The Mayor, or his or her designee reserves the right to reject the sand if a flowable mixture cannot be produced.

d. Water used for mortar backfill shall be free from oil, acid, strong alkalies or vegetable matter.

2. Mortar mix proportioning. The initial trial mixture shall consist of the following quantities of materials per cubic yard:

Class LSM

Cement	50 lbs.
Fly ash	250 lbs.
Sand	2910 lbs.
Water (target)	500 lbs.

a. Adjustments of the proportions may be made by the providing the total absolute volume of the materials is maintained.

b. Mix adjustment. The supplier shall make one or more one-cubic yard trial batches at different water contents to insure a flowable mortar. Mixture is too dry when cracks develop in the mortar as it flows into place.

c. To expedite settlement of the mortar, it will be necessary for bleed water to appear on the surface immediately after the mortar is struck off. A delay in bleeding indicates there are too many fines in the mixture, so the fly ash quantity shall be reduced in increments of 50 pounds until the mixture is bleeding freely. Approximately 60 pounds of sand shall be added to replace each 50 pound increments of fly ash to maintain the original yield.

d. Mixing mortar. The mortar shall be delivered to the site of the work and discharge shall be completed within 2.5 hours.

e. Placing mortar. Flowable mortar shall be discharged from the mixer by any reasonable means into the space to be filled. The fill material shall be brought up uniformly to the fill line shown on the plans or as directed by the Mayor, or his or her designee. Placing of material over low-strength mortar backfill may commence as soon as

the surface water is gone or as directed. Before placing the flowable mortar as backfill for a storm sewer conduit, the permittee shall secure the conduit to prevent it from floating during placement of the flowable mortar. The permittee's proposed method of backfill placement and proposed method of holding the conduit at the plan grade and flowline elevations should be discussed prior to construction.

(b) Excavation material for compacted backfill. Any material from excavation of trenches which is desired to be used for backfill above pipes, which is to be compacted, shall be clean and shall be of such composition that said material can be compacted to 95% relative density with near optimum water content.

(c) Seeding and Protection. All grass areas disturbed by construction shall be restored by seeding and mulching in conformance with Kentucky Transportation Cabinet requirements.

(d) Full-depth pavement sawing. All existing pavement to be removed shall be sawed full depth at the limits of removal, using a diamond saw blade to provide a uniform edge and prevent damage to the pavement that is to remain in place. All pavement sawing should be performed at right angles whenever possible.

(e) Item 403 -sealing edges. All edges of the asphalt concrete surface course constructed shall be sealed with asphalt cement meeting the same specifications as provided in Kentucky Transportation Cabinet requirements. Sealing edges shall be done neatly and without more than one-half inch of the sealant being visible on the surface. Any extra sealant applied to visible surfaces shall be carefully and thoroughly removed by the permittee.

(f) Responsibility for dust, dirt, and appearance. The permittee shall do everything possible to minimize dust and dirt, and to keep the appearance of the area surrounding the street opening in good order. The permittee shall use calcium chloride or equal to keep dust to a minimum. After the close of each working day, the permittee shall see that the surrounding area around the opening is swept up, and as clean as possible. At no time will it be permissible to leave piles of excavated dirt in the street or sidewalk. If necessary, the area will be washed with water. The permittee shall do whatever the Mayor, or his or her designee deems necessary to clean up the area.

(Ord. 2-1-06, passed 3-1-06)

' 91.08 DRIVEWAY CONSTRUCTION.

(A) It shall be unlawful for any person, firm, partnership, or corporation in the laying of a private driveway in the city, to cut, remove, or otherwise change or alter the curb of any street in the city without first having obtained a permit from the City Clerk to do so.

(B) Such permits shall be issued by the City Clerk only after application for such permit has been filed with and approved by the

City Council, and a fee of \$5 has been paid by the applicant for such permit. All funds realized from the issuance of such permits shall be paid into the General Fund of the city.

(C) In the laying and construction of such private driveways, the apron of such driveway, between the gutter of the street and the sidewalk, shall be finished with concrete, and that portion of the apron of such driveway which contacts the line of the street, shall be elevated at least two inches from the level of the gutter.
('77 Code, ' 10-110) Penalty, see ' 91.99

ROAD AND BRIDGE PROJECTS

' 91.15 PUBLIC HEARING REQUIRED.

Before the city expends state derived tax revenues on a municipal highway, road, street, or bridge it shall hold a hearing in accordance with the provisions of this subchapter to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.
(KRS 174.100)

' 91.16 NOTICE REQUIREMENTS.

Prior to the contemplated date of expenditure of state derived tax revenues on a road or bridge by the city, the city shall hold a public hearing for the purpose of taking the sense of the public with regard to road and bridge matters within the city. Notice of the hearing shall be given not less than seven days nor more than 21 days before the scheduled date of the public hearing and before beginning work on any project covered by this subchapter.
(KRS 174.100(1))

' 91.17 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.

(A) At the hearing any person may speak with regard to any proposed project, any project which he feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(B) The city shall not be bound by the testimony heard at the hearing but shall give due consideration to it.
(KRS 174.100(2), (3))

' 91.18 HEARING TO BE HELD PRIOR TO CONSTRUCTION.

The city shall not begin construction on a road or bridge project wherein state derived tax revenues are involved until the hearing as provided herein has been held.
(KRS 174.100(4))

' 91.19 SEPARATE HEARING FOR EACH PROJECT NOT REQUIRED.

This subchapter shall not be construed to require a separate hearing for each project. A single hearing encompassing the entire road and bridge program, provided all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this subchapter.

(KRS 174.100(5))

' 91.20 EXEMPTIONS FROM HEARING REQUIREMENT.

(A) The provisions of this subchapter shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(B) The provisions of this subchapter shall not apply to projects which are under construction as of the effective date of this subchapter unless construction is suspended after the effective date of this subchapter and the city desires to reactivate the project.

(KRS 174.100(6), (7))

OBSTRUCTIONS

' 91.30 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see ' 91.99

' 91.31 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see ' 91.99

' 91.32 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see ' 91.99

Cross-reference:

Littering on streets or sidewalks, see Ch. 94

' 91.33 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated.

Penalty, see ' 91.99

TREES

' 91.40 PROHIBITION ON PLANTING TREES.

No person shall plant between the sidewalk and the curbing of the street within the corporate limits of the city any tree or deep rooted plant, for the reason that the planting causes cracks, breaks, and other defects to appear in the sidewalk and in the streets, which in turn creates a condition injurious to the health, safety, and welfare of the travelers on those ways.

('77 Code, ' 10-100) Penalty, see ' 91.99

' 91.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500. (Ord. 2-1-06, passed 3-1-06)

CHAPTER 92: NUISANCES; JUNK VEHICLES AND APPLIANCES

Section

General Provisions

- 92.01 Definitions
- 92.02 Common law and statutory nuisances
- 92.03 Certain conditions declared a nuisance
- 92.04 Abatement procedure
- 92.05 Nuisance created by others
- 92.06 Suspension of license
- 92.07 Lien on property; costs in enforcing lien

Nuisance Activity

- 92.11 Criminal activity as a public nuisance

Junk Vehicles and Appliances

- 92.15 Definitions
- 92.16 Repair work on motor vehicles within residential districts
- 92.17 Storage of junk motor vehicles and appliances
- 92.18 Exceptions and exemptions
- 92.19 Authority of Police Department
- 92.20 Notice
- 92.21 Implied consent
- 92.22 Removal and disposition
- 92.23 Risk of loss
- 92.24 Reclamation
- 92.25 Removal of nuisance before city removal
- 92.26 Junkyards to have suitable screen
- 92.27 Violation prohibited

- 92.98 Violations; enforcement system
- 92.99 Penalty

Statutory reference:

Private nuisances, see KRS 411.500 - 411.570

GENERAL PROVISIONS

' 92.01 DEFINITIONS.

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

AAUTOMOBILE PARTS.@ Any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

AINOPERATIVE CONDITION.@ Unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten consecutive days.

AMOTOR VEHICLE.@ Any style or type of motor driven vehicle used for the conveyance of persons or property.

APUBLIC NUISANCE.@ Any act, thing, occupation, condition or use of property which shall continue for such a length of time as to:

(1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;

(2) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, sidewalk, stream, ditch or drainage; or

(3) Essentially interfere with the comfortable enjoyment of life and property, or tend to depreciate the value of property of others.

ASCRAP METAL.@ Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.

AUNFIT FOR FURTHER USE.@ In a dangerous condition; having defective or missing parts; or in such a condition generally as to be unfit for further use as a conveyance.

' 92.02 COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.

Penalty, see ' 92.99

' 92.03 CERTAIN CONDITIONS DECLARED A NUISANCE.

It shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

(A) Dangerous trees or stacks adjoining street. Any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.

(B) Accumulation of rubbish. An accumulation on any premises of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another.

(C) Storage of explosives. The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.

(D) Weeds and grass. The excessive growth of weeds, grass, or other vegetation. Unless otherwise provided, AEXCESSIVE@ shall mean growth to a height of 12 inches or more.

(E) Open wells. The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place.

(F) Trees and shrubbery obstructing streets, sidewalks, and drainage. The growing and maintenance of trees or shrubbery which in any way interferes with the use, construction, or maintenance of streets or sidewalks, causes injury to streets or sidewalks, or constitutes an obstruction to drainage.

(G) Keeping of animals. The failure to keep an animal's pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors.

(H) Junk; scrap metal; motor vehicles. The storage of motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile parts, or scrap metal within the city limits except on premises authorized by the city for such purposes.
Penalty, see ' 92.99

' 92.04 ABATEMENT PROCEDURE.

(A) It shall be the duty of any police officer, the Building Inspector, or other responsible officer designated by the legislative body to serve or cause to be served a notice upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of the provisions of this chapter and to demand the abatement of the nuisance within five days, unless the nuisance constitutes an immediate danger to the health and well-being of the community. If such danger is present, the nuisance shall be abated immediately by the city within 24 hours of notice.

(1) Notice shall be served upon persons by hand delivery or regular mail, but if the whereabouts of the persons is unknown and cannot be ascertained in the exercise of reasonable diligence, the enforcing officer shall make an affidavit to that effect, and the serving of notice may be made by publication in a newspaper of general circulation for two consecutive days.

(2) A copy of the notice shall be posted in a conspicuous place on the premises affected by the notice and it shall be recorded in, the office of the County Clerk.

(B) If the person so served does not abate the nuisance within five days, the city may proceed to abate the nuisance, keeping an account of the expense shall be charged to and paid by the owner or occupant.

(C) Charges for nuisance abatement shall be a lien upon the premises. Whenever a bill for charges remains unpaid for 60 days after it has been rendered, the City Clerk may file with the County Clerk a statement of lien claims. This statement/affidavit, shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated, and a notice that the city claims a lien for this amount. The affidavit of the authorized city officer shall constitute prima facie of the amount of the lien and the regularity of proceedings pursuant to KRS 381.770 and this section. The lien shall be notice to all persons from the time of recording and shall bear interest at 6% per annum thereafter until paid. Notice of the lien claim shall be mailed to the owner of the premises if his or her address is known. However, failure to record the lien claim or to mail the notice, or the failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges as provided in division (D) below.

(D) In addition to the lien to which reference is made in KRS 381.770, the city shall have a lien upon the land to which reference is made in KRS 381.770 and KRS 92.04 for the costs incurred in all legal action necessary to foreclose the lien, which costs shall include a reasonable attorney fee, which, in no event, shall be less than \$100.

(E) Property subject to a lien for unpaid nuisance abatement charges shall be sold for nonpayment and the proceeds of the sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. This foreclosure shall be in equity in the name of the city.

(F) The City Attorney is authorized and directed to institute such proceedings, in the name of the city, in any court having jurisdiction over the matter, against any property for which the bill has remained unpaid 60 days after it has been rendered.
(Ord. 10-1-01, passed 11-3-01)

' 92.05 NUISANCE CREATED BY OTHERS.

For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

' 92.06 SUSPENSION OF LICENSE.

(A) Whenever it is shown that a nuisance is associated with or caused by the conduct of a business or activity licensed by the city and that the existence of the nuisance presents an immediate threat to the public health, safety, or welfare, the City Council may suspend the license of the person or persons conducting the business or activity.

(B) The City Clerk shall cause a notice of the suspension to be served personally upon the licensee, or upon any responsible agent of the licensee, at the premises where the licensed business or activity is being conducted. The notice shall clearly inform the licensee of the reason for the suspension, and the conditions that must be met for the suspension to be removed.

(C) Upon application of the licensee, and upon a showing that the nuisance has been satisfactorily abated and that any other reasonable conditions set forth in the notice have been met, the City Council may remove the suspension.

' 92.07 LIEN ON PROPERTY; COSTS IN ENFORCING LIEN.

Upon receipt of the affidavit, the City Clerk shall:

(A) Add the amount of the lien to which reference is made in KRS 381.770 to the tax bill of the city for the real estate;

(B) Retain the affidavit; and upon payment of the lien to which reference is made in the affidavit and the costs and attorneys fees endorse, his or her name to the release attached to the affidavit; and deliver the affidavit and release to the owner of the real estate.
(Ord. 10-1-01, passed 11-3-03)

NUISANCE ACTIVITY

' 92.11 CRIMINAL ACTIVITY AS A PUBLIC NUISANCE.

(A) Definitions. For the purposes of this section, the definitions are as set forth herein, or if not established herein, then as defined in ' 92.01 of this code.

(1) ACRIMINAL ACTIVITY NUISANCE.@ Any building or premises where law enforcement officers have, on more than one occasion in the preceding 12-month period, cited or arrested persons for crimes involving prostitution, controlled substances, disorderly conduct or gambling, or have executed court-issued search warrants for crimes involving prostitution, controlled substances, disorderly conduct or gambling.

(2) ACRIMINAL NUISANCE VIOLATION.@ A criminal citation, arrest, or court-issued search warrant for crimes involving prostitution, controlled substances, alcohol, disorderly conduct or gambling.

(B) Unlawful use of property. No owner of residential, commercial, or vacant property located in the city shall allow his or her property to be used as the site for any criminal activity nuisance after having received notice pursuant to this code that the property has been used for the commission of a criminal activity nuisance. A legal or equitable owner of such property is deemed to have knowledge of such activity upon receipt of the notice as set forth in this code.

(C) Destroying orders or notices. No person or owner shall destroy, remove, or deface any order or notice posted by any Code Enforcement Officer, or other officer of the city.

(D) Disobeying orders. No person or owner shall disobey any order issued by any Code Enforcement Officer, or other officer of the city, or use or occupy or permit any other person to use or occupy any premises ordered closed by the Building Inspector, the Code Enforcement Board, a Code Enforcement Officer or other city officer.

(E) Duty of Police Department: Duty of City of Bromley. The Police Department utilized by the City of Bromley shall, as soon as possible but not less than every 30 days after criminally citing or arresting persons or executing court-issued search warrants for crimes involving prostitution, controlled substances, alcohol, disorderly conduct or gambling, notify the Mayor in writing of the specific violation investigated, the address of the property on or in which the violations occurred, and the circumstances of the violation. It shall be the responsibility of the Mayor to pass such information along to the Code Enforcement Department. After the police notify the Mayor of a criminal nuisance violation at a property for the first time, the Code Enforcement Department shall notify the owner of the property of such violation by regular U.S. mail at the last known address of record for such property owner. If no address is noted, mailing the notice of such violation by regular U.S. mail to the property address, addressed to the last known owner of record shall be sufficient.

(F) Notice of Criminal Activity Nuisance.

(1) Whenever the Code Enforcement Department receives information of a second or subsequent criminal activity nuisance occurring in or upon residential, commercial, or vacant property, i.e. a second criminal nuisance violation has occurred at the property, it shall notify the owner that the property is a criminal activity nuisance and that the nuisance must be abated. If a property owner, or his or her tenant reports an illegal activity that leads to a criminal citation or court-ordered search warrant, such citation or warrant will not be considered a criminal nuisance violation for purposes of this section.

(2) The notice required by this section shall be mailed by certified mail, return receipt requested. If certified mail is not accepted or received by the property owner, notice may be served by personal delivery upon the owner. If the whereabouts of the property owner is unknown and it cannot be ascertained by a Code Enforcement

Officer in the exercise of reasonable diligence, or if the whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the Code Enforcement Officer shall make an affidavit to that effect, and thereafter, the Officer may serve the notice by posting a copy of it in a conspicuous place on the premises, by sending a copy of the notice by regular U.S. mail to the property owner's last known mailing address, by newspaper publication, pursuant to KRS Chapter 424, and by recording the notice in the Kenton County Clerk's Office.

(G) Abatement.

(1) Should the criminal activity nuisance not be abated at the time stated in the notice, or by any extension granted by the city or its agencies, the Chief Code Enforcement Officer or Mayor shall be authorized at any time thereafter to issue an order closing and vacating the premises, or portions thereof, to the extent necessary to abate the criminal activity nuisance. Such closing and vacating shall be for such period as the Chief Code Enforcement Officer or Mayor reasonably may direct, but in no event shall the closing and vacating be for a period of more than one year from the date of the closing. A close and vacate order issued by the Chief Code Enforcement Officer or Mayor pursuant to this section is not an act of possession, ownership, or control by the City of Bromley or its officers and/or agents. A close and vacate order may be rescinded within 14 days after the criminal activity nuisance is abated unless such premises are the site of repeated close and vacate orders.

(2) If the premises consist of multi-unit dwellings or mixed uses and the criminal activity nuisance has occurred solely within a particular unit or particular units, the authority to close and vacate is restricted to the particular unit or particular units in which the criminal activity nuisance has occurred, and does not extend to any other unit or units within the premises.

(3) Upon the issuance of any order provided for in this section, a copy of the order shall be served upon the owner of the property in the same manner as proscribed in division (F) above, and a copy shall be conspicuously posted on the property.

(4) If any person, or owner fails to comply with an order to close and vacate issued pursuant to this section, the City of Bromley may take any or all of the following actions in order to gain compliance with its order:

(a) Prohibit the furnishing of utility service, including but not limited to gas, electric, water, and heating oil, to the premises by any public utility holding a franchise to use the streets and public ways Of the city; and

(b) Revoke the certificate of occupancy of the premises or the occupational license of a business; and

(c) Use any other legal remedy available under the laws of the Commonwealth of Kentucky.

(5) Pursuant to the provisions of KRS 381.770(6) - (8) the city shall possess a lien against the property for all fines, penalties, charges, and fees imposed and for the reasonable value of labor and materials used to abate the public nuisance. This lien shall be superior to and have priority over all other subsequent liens upon the property except taxes and may be enforced by judicial proceeding.

(H) Eviction as a defense.

(1) After an owner has been provided notice in accordance with the provisions of this ' 92.11 of such violation, it shall be a defense of the owner to a violation of this section if the owner has instituted an eviction proceeding within 30 days against the offending tenant or occupants of the offending premises, and the owner completes that eviction within 45 days of commencement. In the event that judicial or quasi-judicial proceedings prohibit an owner from proceeding with an eviction, abatement of the public nuisance by eviction will be stayed until the judicial or quasi-judicial proceeding is resolved.

(2) In the case of multi-unit dwellings, the only parties necessary to name in an eviction proceeding are the occupants of the actual unit or units involved with the activity suspected, or the occupants suspected of the activity described in the notice.

(I) Other relief from order. Should the property owner request relief from the close and vacate order, other than as provided within this ' 92.11 of this chapter, such property owner may request a hearing before the Code Enforcement Board. The property owner may appear in person or in person represented by counsel. In any event such property owner shall be present at such hearing, and prepared to testify. At such hearing, all parties to testify shall be sworn before the Board. The Board shall hear evidence first from the property owner as to why the Board should vacate or suspend the provisions of the order to close and vacate the property. The burden of proof shall be upon the property owner to show by clear and convincing evidence that the criminal activity nuisance has been abated and will not be maintained or permitted in any unit of the premises. Upon such proof being presented to the Board and the Board finding that such proof has met the standard of clear and convincing evidence, the Board shall vacate or suspend the provisions of the order to close and vacate the property.

(J) Abatement actions not in violation of law. Actions taken by an owner to abate a criminal activity nuisance shall not be deemed to be violations of Fair Housing or Landlord-Tenant laws.

(K) Other remedies available. Enforcement of this section does not impair or restrict the ability of the city to bring a separate action to revoke the occupational license of a landlord or business who allows a criminal activity nuisance to exist on the landlord's property or to

bring an action before the Code Enforcement Board for the imposition of civil fines, as set forth in ' 37.06 of this City of Bromley Code of Ordinances. No civil fines will be assessed by the Code Enforcement Board until after notice is sent pursuant to division (F) of this section or if an eviction proceeding has been instituted pursuant to division (H) of this section.

(Ord. 6-2-08, passed 7-2-08; Am. Ord. 4-1-11, passed 5-4-11)

JUNK VEHICLES AND APPLIANCES

' 92.15 DEFINITIONS.

For the purpose of this subchapter the following words and phrases shall have the following meanings ascribed to them respectively.

AAUTOMOBILE@ or AMOTOR VEHICLE PARTS.@ Any portion or parts of any motor-driven vehicle as detached from the vehicle as a whole.

AIMPOUNDMENT PERIOD.@ The 60 consecutive day period beginning the day the nuisance is removed pursuant to this chapter.

AJUNK APPLIANCES.@ Any unit, or part thereof, of machinery, furniture, or equipment, whether mechanical or powered by some source of energy or not, which is not functioning efficiently and effectively, is unfit for further use, or is abandoned, as those terms are defined in this section, including, but not limited to stoves, refrigerators, television sets, beds, mattresses, lamps, tools, and objects of art. The term AJUNK APPLIANCES@ shall not apply where the unit does not exceed 15 cubic feet or a combination of units in the immediate proximity to each other does not exceed 20 cubic feet.

AJUNK MOTOR VEHICLE@:

(1) AMOTOR VEHICLE IN ANY INOPERATIVE CONDITION.@ Any style or type of motor-driven vehicle used or useful for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts; or unable to be legally operated on a public highway due to a lack of current state registration or licensure, or a lack of display of a current city sticker; or

(2) AMOTOR VEHICLE UNFIT FOR FURTHER USE.@ Any style or type of motor-driven vehicle used for the conveyance of persons or property which is in a dangerous condition, has defective or missing parts, or is in such condition as to be unfit for further use as a conveyance; or

(3) AABANDONED MOTOR VEHICLE.@ Any motor-driven vehicle which the owner thereof, including any person having a security interest therein, has deserted and left unclaimed on any lot or parcel of ground, public or private, within the corporate limits of the city for a period in excess of seven consecutive days.

AMOTOR VEHICLE JUNKYARD@ or AAPPLIANCE JUNKYARD.@ Any place where one or more junked vehicles or junked appliances as those terms are defined in this section, are deposited, parked, or otherwise located pursuant to the legitimate engagement in the business of dealing with junked motor vehicles or appliances, by one who has obtained the requisite license or written permission of the governing body of the city.

(Am. Ord. 3-1-91, passed 4-6-91)

' 92.16 REPAIR WORK ON MOTOR VEHICLES WITHIN RESIDENTIAL DISTRICTS.

The practice of persons repairing, stripping, and painting motor vehicles of which the person is not the owner, whether for remuneration or otherwise, within the residential districts of the city is prohibited and declared to be a public nuisance.
Penalty, see ' 92.99

' 92.17 STORAGE OF JUNK MOTOR VEHICLES AND APPLIANCES.

The presence of any junked motor vehicle, junked appliance, related refuse or rubbish from such vehicles or appliances, or unsightly automobile or motor vehicle parts on any lot or parcel of

land, public or private, within the territorial limits of the city shall be deemed a public nuisance. However, an abandoned motor vehicle must be abandoned for a period in excess of seven consecutive days unless it becomes hazardous due to its location. It shall be unlawful for any person to cause or maintain such a public nuisance by keeping, storing, placing, or allowing these items to remain in open view. The owners or occupants of any such lot or parcel of land or other person maintaining or permitting any such nuisance, shall jointly and severally be responsible for the abatement of said nuisance by prompt removal of the offending object into completely enclosed buildings within the territorial limits of the city or to a location outside the territorial limits of the city.

Penalty, see ' 92.99

' 92.18 EXCEPTIONS AND EXEMPTIONS.

The following items are exempted from compliance with the provisions of ' 92.16 and 92.17 of this chapter.

(A) Any motor vehicle or appliance in an enclosed building.

(B) Any motor vehicle or appliance on the premises of a business enterprise operating in a lawful manner and having obtained the requisite occupational license under Chapter 110 to engage in its business; provided:

(1) The vehicle or appliance is necessary to the operation of an enterprise dealing in motor vehicles or appliances, so long as no more than 12 junk vehicles or appliances are present; or

(2) The enterprise is a motor vehicle or appliance junkyard which has satisfied ' 92.26 of this chapter. However, nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.

(C) Any vehicle or appliance in a designated depository maintained in a lawful place and manner by the city.

' 92.19 AUTHORITY OF POLICE DEPARTMENT.

The Chief of Police or his subordinates within the Police Department are granted the authority as enforcement officers hereunder, to enter upon private or public property to examine, obtain information as to the identity and owner of, and remove or cause removal, transport, or store, a junked motor vehicle or junked appliance declared to be a public nuisance pursuant to this subchapter.

' 92.20 NOTICE.

(A) Whenever it is deemed that a public nuisance exists, notice to the parties as required in division (B) shall be issued. The notice shall:

appliances. Any excess proceeds of sale shall be paid to or held for the benefit of the owner of the property sold and any other person known to have an interest therein.

Statutory reference:

Legal notices, see KRS Ch. 424

Statutory liens, see KRS Ch. 376

' 92.23 RISK OF LOSS.

The owner of any junked motor vehicle or junked appliance removed and disposed of pursuant to this subchapter shall be solely liable for any loss or damage to the vehicle or appliance while being removed or as a result of any subsequent sale or other disposition. However, the person removing such vehicle or appliance shall exercise ordinary care to prevent damage and loss thereto during transportation and during the impoundment period.

' 92.24 RECLAMATION.

The owner of any interest in any junked motor vehicle or appliance which has been removed, transported, or stored pursuant to this subchapter may, prior to the sale thereof, present sufficient proof of ownership thereof or security interest therein to the city, and the city shall order the release of the vehicle or appliance to the person upon payment of all charges and expenses of removal, transportation, storage, and sale.

' 92.25 REMOVAL OF NUISANCE BEFORE CITY REMOVAL.

Removal of any junked motor vehicle or appliance prior to time for city removal shall be considered compliance with the provisions of this subchapter.

' 92.26 JUNKYARDS TO HAVE SUITABLE SCREEN.

Any motor vehicle or appliance junkyard, auto lot, body shop, or the like located within the corporate limits of the city shall be screened from view from ground level by a fence, shrubs, trees, other natural foliage, or by natural topography, no less than eight feet in height. The person acting as operator of the motor vehicle or appliance junkyard, auto lot, body shop, or the like shall be responsible for the erection and maintenance of the screen required herein.

' 92.27 VIOLATION PROHIBITED.

It shall be unlawful for any person to continue and maintain a public nuisance as described herein, and in addition to the civil remedies provided by this chapter such person shall be punished as provided in ' 92.99 of this chapter.

Penalty, see ' 92.99

' 92.98 VIOLATIONS; ENFORCEMENT SYSTEM.

In arriving at realistic penalties for violations of provisions contained in this chapter, the primary objective has been to establish them as part of the simplest possible enforcement system. The system has three features.

(A) A mail-in ticket which:

(1) Identifies the violator.

(2) Lists and identifies violations of the ordinance provisions by section numbers.

(3) States the prescribed fine beside each violation listed.

(4) Provides simple instructions on where the ticket is to be mailed with a check or money order in the amount of the stipulated fine.

(5) States a simple procedure to follow if the violator elects to appear in court to plead his case rather than mail in the fine.

(B) Use of the above ticket by all department and city personnel authorized to enforce this section.

(C) Use for particularly flagrant violations (those nuisances which are dangerous or unhealthful or which are detrimental to the health, safety and welfare of the citizens and visitors of the city). This would be in the form of a direct summons to court, with penalty range substantially above those on the mail-in ticket.

(Ord. 1988-21, passed 7-11-88; Am. Ord. 1991-7, passed 6-24-91; Am. Ord. 6-1-92, passed 7-14-92)

' 92.99 PENALTY.

(A) Any person who violates any provision of this chapter shall for which no penalty is otherwise provided shall be guilty of a violation and shall be subject to a fine not to exceed \$250.

(B) (1) Whoever violates any of the provisions of ' 92.02 or 92.03 of this chapter shall be guilty of a violation and shall be punished by a fine of \$25 for the first offense, and \$50 for the second offense, and \$75 for each subsequent offense.

(2) The fine provided in division (B)(1) of this section shall be double if not paid within five business days after the issuance of a citation. If the fine is not paid within ten business days after the issuance of a citation, the violator may be cited to appear before the Kenton District Court and all court costs shall be borne by the violator in addition to any fine imposed by the court.

(3) Any person found guilty of violating any provision of ' ' 92.02 or 92.03 of this chapter in district court shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for each offense. Each day that a violation continues shall constitute a separate offense.

(Ord. 1988-21, passed 7-11-88; Am. Ord. 1991-7, passed 6-24-91; Am. Ord. 6-1-92, passed 7-14-92)

CHAPTER 93: FIREWORKS; FIRE PREVENTION

Section

Fireworks

- 93.01 Definitions; legality of items
- 93.02 Sale or use prohibited; exception for public display
- 93.03 Consumer fireworks; restrictions on sale
- 93.04 Bond or liability insurance requirement
- 93.05 Exempted sales and uses
- 93.06 Destruction of fireworks

Fire Prevention

- 93.20 Blasting permit
- 93.21 Storage of flammables and other matter

- 93.99 Penalty

FIREWORKS

' 93.01 DEFINITIONS; LEGALITY OF ITEMS.

(A) As used in KRS 227.700 to 227.750, AFIREWORKS@ means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of Aconsumer fireworks@ as defined in division (B) or Adisplay@ fireworks as defined in division (D) and as set forth in the U.S. Department of Transportation's (DOT) hazardous materials regulations.

(1) Exception number 1: Toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.

(2) Exception number 2: Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks.

(3) Exception number 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.
(KRS 227.700)

(B) As used in KRS 227.700 through 227.750, ACONSUMER FIREWORKS@ means fireworks that are suitable for use by the public, designed primarily to produce visible effects by combustion, and comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission. The types, sizes, and amount of pyrotechnic contents of these devices are limited as enumerated in this chapter. Some small devices designed to produce audible effects

are included, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. ACONSUMER FIREWORKS@ are further defined by the Consumer Product Safety Commission in CPSC, 16 CPSC, 16 C.F.R. Pts 1500 and 1507, are classified as division 1.4 explosives by the U.S. Department of Transportation and include the following:

(1) Ground and hand-held sparkling devices.

(a) Dipped stick-sparkler or wire sparkler. These devices consist a metal wire or wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to 100 grams of pyrotechnic composition per item. Those devices containing any perchlorate or chlorate salts may not exceed five grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item are not included in this category, in accordance with DOT regulations.

(b) Cylindrical fountain. Cylindrical tube containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least 2 inch.

(c) Cone fountain. Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, the total pyrotechnic composition may not exceed 200 grams, or 500 grams of the tubes are separated from each other on the base by a distance of at least 2 inch.

(d) Illuminating torch. Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held. When more than one tube is mounted on a common base, the total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least 2 inch.

(e) Wheel. A device attached to a post or tree by means of a nail or string. A wheel may have one or more drivers, each of which may contain not more than 60 grams of pyrotechnic composition. No wheel contain more than 200 grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) Ground spinner. Small device containing not more than 20 grams of pyrotechnic composition, similar in operation to a wheel but intended to be placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) Flitter sparkler. Narrow paper tube attached to a stick or wire and filled with not more than 100 grams of pyrotechnic composition that produces color and sparks upon ignition. The paper at one end of the tube is ignited to make the device function.

(h) Toy smoke device. Small plastic or paper item containing not more than 100 grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(2) Aerial devices.

(a) Sky rockets and bottle rockets. Cylindrical tube containing not more than 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(b) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

(c) Helicopter, aerial spinner. A tube containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(d) Roman candles. Heavy paper or cardboard tube containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

(e) Mine, shell. Heavy cardboard or paper tube usually attached to a wood or plastic base and containing up to 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition). Upon ignition, Astars,@ components producing reports containing up to 130 milligrams of explosive composition per report, or other devices are propelled into the air. The term Amine@ refers to a device with no internal components containing a bursting charge, and the term Ashell@ refers to a device that propels a component that subsequently bursts open in the air. A mine or shell device may contain more than one tube provided the tubes fire in sequence upon ignition of one external fuse. The term Acake@ refers to a dense-packed collection of mine or shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed 200 grams. The maximum quantity of lift charge in any one tube of a mine or shell device shall not exceed 20 grams, and the maximum quality of break or bursting charge in any component shall not exceed 25% of the total weight of chemical composition in the component.

(f) Aerial shell kit, reloadable tube. A package kit containing a cardboard, high-density polyethylene (HDPE, or equivalent launching tube with multiple-shot aerial shells. Each aerial shell is limited to a maximum of 60 grams of total chemical composition (lift charge, bust charge, and visible or audible effect composition), and the maximum diameter of each shell shall not exceed 1 3/4 inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of chemical composition in the shell. The total chemical composition of all the shells in the kit, including lift charge, shall not exceed 400 grams. The user lower a shell into the launching tube, at the time of firing, with the fusing extending out of the top of the tube. After the firing, the tube is then reloaded with another shell for the next firing. All launching tubes shall be capable of firing twice the number of shells in the kit without failure of the tube. Each package of multiple-shot aerial shells must comply with all warning label requirements of the Consumer Product Safety Commission.

(3) Audible ground devices.

(a) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than 50 milligrams of pyrotechnic composition. Those used in aerial devices may contain not more than 130 milligrams of explosive composition per report. Upon ignition, noise and a flash of light is produced.

(b) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 milligrams.
(KRS 227.702)

(C) Items listed below are classified as ANOVELTIES@ and ATRICK NOISEMAKERS@ and are not classified as consumer fireworks by the U.S. Department of Transportation and their transportation, storage, retail sale, possession, sale, and use shall be allowed throughout the state at all times.

(1) Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(3) Wire sparkler. Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed 100 grams of composition per item. Devices containing any chlorate or perchlorate salts may not exceed five grams of composition per item.

(4) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

(a) Party popper. Small plastic or paper item containing not more than 16 milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(b) Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.

(d) Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.

(e) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(f) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle or smoke, or both, 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.

(KRS 227.704)

(D) As used in KRS 227.700 through 227.750, ADISPLAY FIREWORKS@ means pyrotechnic devices or large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, firecrackers containing more than two grains (130 milligrams) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as consumer fireworks. Display fireworks are defined by the Consumer Product Safety Commission in CPSC, 16 C.F.R. Pts. 1500 and 1507, and are classified as class B explosives by the U.S. Department of Transportation.

(KRS 227.706)

(E) Legality of items.

(1) Items described in division (B)(1) above are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.

(2) Items described in divisions (B)(2), (B)(3), and (D) are not legal for retail sale but are legal under permits granted pursuant to this chapter for the purposes specified in this chapter for public displays and may be sold at wholesale as provided in this chapter.

(3) Items described in division (C) are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.

(KRS 227.708)

' 93.02 SALE OR USE PROHIBITED; EXCEPTION FOR PUBLIC DISPLAY.

No person, firm, co-partnership or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode, any display fireworks, except as follows:

(A)(1) The Chief of the Fire Department or other authorized city official may grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations or groups of individuals.

(2) Every display shall be handled by a competent display operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of the official, after proper inspection, to not be hazardous to property or endanger any person.

(3) ACOMPETENT DISPLAY OPERATOR@ shall be defined as the person with overall responsibility for the operation and safety of a fireworks display. The Acompetent display operator@ shall have a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) License and have participated as an assistant in firing at least five public displays. A competent display operator@ is also an employee possessor. A permit under division (1) shall be issued only to a competent display operator holding an ATF license.

(4) At least one competent display operator shall be on site during display set-up and firing. This complement display operator shall maintain a copy of the permit application, as signed by the local authority having jurisdiction as identified in this section, on site and at all times the display is in place, and shall be presented on demand of the State Fire Marshal or local Fire Chief. All public displays that require issuance of a permit shall be conducted in accordance with the provisions of National Fire Protection Association (NFPA) 1123 Code for Fireworks Display (adopted edition).

(5) Permits shall be filed with the office of the State Fire Marshal at least fifteen (15) days in advance of the date of the display. After this privilege shall have been granted, sales, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this subsection

shall be transferable. For the purpose of this section, Apublic display of fireworks@ shall include the use of pyrotechnic devices or pyrotechnic materials before a proximate audience, whether indoors or outdoors.

(6) Any person remaining within the display area shall be identified as licensed by the ATF, or an employee thereof, or be an assistant in training to become a competent display operator. All persons remaining within the display area shall be at least 18 years of age.

(7) The Commissioner of the Department of Housing, Buildings and Construction with recommendation from the State Fire Marshal shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this division. The regulations shall address the process by which permits are issued and any other procedures that are reasonably necessary to effectuate this division.

(B) The sale, at wholesale, of any display fireworks for permitted displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco and Firearms, and Explosives if the sale is to a person holding a display permit as outlined in subsection (A) of this section. The permit holder shall present the permit along with other verifiable identification at the time of sale.

(C) The sale of display fireworks in accordance with a license issued by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

(D) The sale, and use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation, and highway use.

(E) The use of fuses and railway torpedoes by railroads.

(F) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(G) The use of any pyrotechnic device by military organizations.

(H) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or any equivalent or local agency.

(I) Nothing in this section shall prohibit a person, firm, co-partnership, non-profit, or corporation from offering for sale, exposing for sale, selling at retail, keeping with intent to sell, possessing or using consumer fireworks as defined in KRS 227.702 as permitted pursuant to KRS 227.715.

(KRS 227.710) Penalty, see ' 93.99

' 93.03 CONSUMER FIREWORKS; RESTRICTIONS ON SALE.

(A) Except as provided in ' 93.02, the consumer fireworks described in KRS 227.702 may be offered for sale, sold at retail, or kept with the intent to sell, only if the requirements of this section are met.

(B) Any person firm, co-partnership, non-profit, or business intending to sell consumer fireworks described in KRS 227.702(1) shall register annually with the State Fire Marshal's office in accordance with KRS 227.715, and display its registration certificate in a conspicuous location at the site.

(C) Each site at which fireworks are offered for sale shall comply with all applicable provisions of the International Building Code, with Kentucky Amendments (adopted edition), and NFPA 1124 (National Fire Protection Association) Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (adopted addition);

(D) No person or business shall give, offer for sale, or sell any consumer fireworks listed in ' 93.01(B) to any person under 18 years of age.

(E) No person under 18 years of age may be employed by a fireworks distribution facility, or manufacturing facility. No person under 18 years of age shall sell consumer fireworks at a consumer fireworks retail sales facility registered under KRS 227.715 unless the individual is supervised by a parent or guardian.
(KRS 227.715 (7) through (9)) Penalty, see ' 93.99

' 93.04 BOND OR LIABILITY INSURANCE REQUIREMENT.

No permit shall be issued under ' 93.02 unless the applicant shall give bond or evidence of liability insurance deemed adequate by the official to whom application for the permit is made, in a sum not less than \$1,000,000. However, the appropriate city official or the State Fire Marshal may require a larger amount if in their judgment the situation requires it, conditioned for the payment of all damages which may be caused thereby either to a person or to property by reason of the permitted display, and arising from any acts of the licensee, his agents, employees or subcontractors.
(KRS 227.720) Penalty, see ' 93.99

' 93.05 EXEMPTED SALES AND USES.

Nothing in this chapter shall prevent the retail sale and use of explosives or signaling flares used in the course of ordinary business or industry, or gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture, or shells or cartridges,

used as ammunition in firearms, or blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or the sale of any kind of fireworks provided the same are to be shipped by the seller directly out of the state.

(KRS 227.730)

' 93.06 DESTRUCTION OF FIREWORKS.

(A) The State Fire Marshal, or any fire department having jurisdiction which has been deputized to act on behalf of the state fire marshal, shall cause to be removed at the expense of the owner all stocks of fireworks which are stored and held in violation of this chapter. After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified fireworks wholesaler.

(B) After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified manufacturer, distributor, or wholesaler. All seized fireworks or explosives with a Class 1.3G or "Display" designation shall require the notification of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives. The state fire marshal shall provide the owner or possessor a receipt containing the complete inventory of any fireworks seized within five business days of the seizure.

(C) Before any seized fireworks may be disposed of:

(1) If the owner of the seized fireworks is known to the state fire marshal, the state fire marshal shall give notice by registered mail or personal service to the owner of the state fire marshal's intention to dispose of the fireworks. The notice shall inform the owner of the state fire marshal's intent. The state fire marshal shall conduct an administrative hearing in accordance with KRS Chapter 13B concerning the disposal of fireworks; or

(2) If the identity of the owner of any seized fireworks is not known to the state fire marshal, the state fire marshal shall cause to be published, in a newspaper of general circulation in the county in which the seizure was made, notice of the seizure, and of the state fire marshal's intention to dispose of the fireworks. The notice shall be published once each week for three consecutive weeks. If no person claims ownership of the fireworks within ten days of the date of the last publication, the state fire marshal may proceed with disposal of the fireworks. If the owner does claim the fireworks within ten (10) days of the date of the last publication, a hearing as set out in division (A) shall be held.

(D) Nothing in KRS 227.700 to 227.750 shall restrict a local government from enacting ordinances that affect the sale or use of fireworks within its jurisdiction.

(KRS 227.750)

FIRE PREVENTION

' 93.20 BLASTING PERMIT.

No person shall cause a blast to occur within the city without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the authorized city official. The authorized city official, before granting such permit may require the applicant to provide a bond to indemnify the city and all other persons against injury or damages which might result from the proposed blasting.

Penalty, see ' 93.99

' 93.21 STORAGE OF FLAMMABLES AND OTHER MATTER.

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire.

Penalty, see ' 93.99

' 93.99 PENALTY.

(A) Any person violating the provisions of ' 93.02 or 93.04, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than \$1,000, or imprisoned for not more than 30 days, or both. (KRS 227.990(4))

(B) Any person who violates any other provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500.

CHAPTER 94: LITTERING

Section

- 94.01 Throwing litter from vehicle
- 94.02 Tracking foreign matter on streets
- 94.03 Hauling loose material
- 94.04 Sweeping litter into gutters
- 94.05 Litter on private property

- 94.99 Penalty

' 94.01 THROWING LITTER FROM VEHICLE.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the city or upon private property.

Penalty, see ' 94.99

' 94.02 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit upon any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

Penalty, see ' 94.99

' 94.03 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from any vehicle upon any street, alley, sidewalk, or other public place, shall be removed immediately by the person in charge of the vehicle.

Penalty, see ' 94.99

' 94.04 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Penalty, see ' 94.99

' 94.05 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by that person or not,

except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city whether owned by that person or not. Penalty, see ' 94.99

' 94.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 95: PARKS AND RECREATION

Section

Park and Playground Use

- 95.01 Playground and ballfield user fee
- 95.02 Care of facilities by users
- 95.03 Prohibited acts
- 95.04 Park traffic
- 95.05 Animal regulations
- 95.06 Peddling in parks
- 95.07 Alcoholic beverages
- 95.08 Signs
- 95.09 Exemption

Administration and Enforcement

- 95.20 Playground and Park Supervisor
- 95.21 Parks and Playgrounds Committee
- 95.22 Reward for information concerning violator

- 95.99 Penalty

PARK AND PLAYGROUND USE

' 95.01 PLAYGROUND AND BALLFIELD USER FEE.

(A) All teams, groups, or individuals which are composed primarily and substantially of residents of the city and which desire to use the playground or ballfield, shall have the use and enjoyment of the ballfield and playground with no charge, upon obtaining prior approval of the Playground and Park Supervisor as to the times and dates the playground and ballfield is available for use.

(B) All teams, groups, or individuals which are not, in the sole discretion of the Playground and Park Supervisor, composed primarily and substantially of residents of the city, shall only be entitled to the use and enjoyment of the playground and ballfield upon payment of a \$25 user fee and receiving therefor a receipt from the Playground and Park Supervisor, upon which shall be stated the date or dates and time such nonresident teams, groups, or individuals shall be permitted to use the facilities.

(C) All proceeds generated pursuant to division (B) above shall be payable to and with the Playground and Park Supervisor for deposit to the city general fund, but used solely for maintenance and upkeep of the playground and ballfield, for new playground equipment or supplies, in the discretion of Council.

(Ord. 4-3-82, passed 4-13-82; Am. Ord. 5-3-88, passed - -88)

' 95.02 CARE OF FACILITIES BY USERS.

Each person, firm, or corporation using the public parks and grounds shall clean up all debris, extinguish all fires when fires

are permitted, and leave the premises in good order, and the facilities in a neat and sanitary condition.

('77 Code, ' 8-200) Penalty, see ' 95.99

' 95.03 PROHIBITED ACTS.

It shall be unlawful for any person, firm, or corporation using such parks to either perform or permit to be performed any of the following acts:

(A) Willfully mark, deface, disfigure, injure, tamper with, displace, or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices, or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures of equipment, facilities, or park property or appurtenances whatsoever, either real or personal.

(B) Throw, discharge, or otherwise place or cause to be placed in the water of any fountain, pond, lake, stream, bay, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of the waters.

(C) Bring in or dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(D) Disturb the peace, or use any profane, obscene, or blasphemous language.

(E) Endanger the safety of any person by any conduct or act.

(F) Commit any assault, battery, or engage in fighting.

(G) Carry, possess, or drink any alcoholic beverage in any park.

(H) Violate any rule for the use of the park, made or approved by the City Council.

(I) Prevent any person from using any park, or any of its facilities, or interfere with such use in compliance with this chapter and the rules applicable to such use.

('77 Code, ' 8-205) Penalty, see ' 95.99

' 95.04 PARK TRAFFIC.

It shall be unlawful to drive or park any automobile except on a street, driveway, or parking lot in any park; or to park or leave any such vehicle in any place other than one established for public parking.

('77 Code, ' 8-210(1)) Penalty, see ' 95.99

' 95.05 ANIMAL REGULATIONS.

It shall be unlawful to bring any dangerous animal into any park, and it shall be unlawful to permit any dog to be in any park unless the dog is on a leash not more than six feet long.

('77 Code, ' 8-210(2)) Penalty, see ' 95.99

' 95.06 PEDDLING IN PARKS.

It shall be unlawful for any person other than employees and officials of the city, acting on behalf of the city, to vend, sell, peddle, or offer for sale any commodity or article within any park.

('77 Code, ' 8-210(3)) Penalty, see ' 95.99

' 95.07 ALCOHOLIC BEVERAGES.

It shall be unlawful for any person in any park in the city to have in his possession, custody, or control any alcoholic beverage of any kind whatsoever.

('77 Code, ' 8-210(4)) Penalty, see ' 95.99

' 95.08 SIGNS.

It shall be unlawful for anyone to paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

('77 Code, ' 8-210(5)) Penalty, see ' 95.99

' 95.09 EXEMPTION.

The provisions of this chapter shall not apply to any properly authorized government official in pursuant of any official duty.

('77 Code, ' 8-210)

ADMINISTRATION AND ENFORCEMENT

' 95.20 PLAYGROUND AND PARK SUPERVISOR.

(A) The Mayor shall appoint a Playground and Park Supervisor with approval of City Council to perform such duties as are established by this code or other ordinances of the city. The Playground and Park Supervisor shall serve during good behavior and satisfactory service. The compensation for this office shall be set by appropriate ordinance

of the City Council. The Mayor may remove the Supervisor at will.

(B) The duties of the Playground Maintenance Worker shall be as follows:

(1) Keep the sidewalks free of snow and ice in winter. Do not let salt stand on sidewalks after snow and ice are removed;

(2) Keep the lawn properly mowed and trimmed, at least once every two weeks, once each week at times of heavy growth. After trimming sweep and dispose of grass trimmings;

(3) Maintain the city tractor and related equipment. This shall be approved by the Chairperson of the Parks Committee;

(4) Install and remove swings, and the like, as required by the season; and

(5) Report to the Parks Chairperson and/or the Mayor.
('77 Code, ' 8-405) (Am. Ord. 6-1-99, passed 7-3-99)

' 95.21 PARKS AND PLAYGROUNDS COMMITTEE.

The Parks and Playgrounds Committee established under ' 32.63 shall advise Council concerning all matters regarding the use of the city's public parks and playgrounds.
('77 Code, ' 8-215)

' 95.22 REWARD FOR INFORMATION CONCERNING VIOLATOR.

Anyone who provides information leading to the arrest and conviction of anyone violating this chapter shall be rewarded up to \$50 from the City Treasury, at the discretion of the City Council.
('77 Code, ' 8-295)

' 95.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than 90 days, or both. Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 96: A911@ EMERGENCY TELEPHONE SERVICES

Section

- 96.01 Establishment
- 96.02 Service charge
- 96.03 Collection of service charge
- 96.04 Funds restriction

' 96.01 ESTABLISHMENT.

Pursuant to the authority of KRS 65.760, 911 emergency telephone services are hereby established within the City of Bromley.
(Ord. 5-3-08, passed 6-4-08)

' 96.02 SERVICE CHARGE.

In order to provide the funds necessary to establish and operate 911 emergency telephone services within the City of Bromley, and pursuant to the authority of KRS 65.760 (3), a monthly subscriber service charge of \$4.25 is hereby levied and imposed upon every telephone service subscriber within the city, on an individual exchange line basis, but limited to a maximum of 25 exchange lines per account.
(Ord. 5-3-08, passed 6-4-08)

' 96.03 COLLECTION OF SERVICE CHARGE.

The monthly subscriber service charge hereby imposed and levied shall be collected by each telephone company that provides local exchange services to telephone subscribers within the city; and then remitted to the city minus 3% thereof, which shall be retained by the telephone company for their expenses associated with the 911 emergency telephone services within the City of Bromley.
(Ord. 5-3-08, passed 6-4-08)

' 96.04 FUNDS RESTRICTION.

All revenues from the monthly subscriber service charge hereby imposed and levied shall be expended solely for the provision of a 911 emergency communication system; and this may include expenditures to train communication personnel and to inform the public of the availability and proper use of 911 services.
(Ord. 5-3-08, passed 6-4-08)

CHAPTER 97: NOISE CONTROL

Section

General Provisions

- 97.01 Short title
- 97.02 Findings and policy; scope
- 97.03 Definitions
- 97.04 Receiving land use noise levels
- 97.05 Variances
- 97.06 Permit

Prohibited Acts

- 97.15 General prohibitions
- 97.16 Radios, television sets, and similar devices
- 97.17 Loudspeakers
- 97.18 Street sales
- 97.19 Animals
- 97.20 Loading and unloading
- 97.21 Construction
- 97.22 Vehicle, motorboat, or aircraft repairs and testing
- 97.23 Horns and signaling devices
- 97.24 Explosives, firearms, and similar devices
- 97.25 Powered model vehicles
- 97.26 Stationary non-emergency signaling devices
- 97.27 Emergency signaling devices
- 97.28 Motorboats
- 97.29 Noise sensitive zones
- 97.30 Domestic power equipment
- 97.31 Commercial power equipment
- 97.32 Vibration
- 97.33 Racing events
- 97.34 Defective vehicle
- 97.35 Refuse compacting vehicles
- 97.36 Places of public entertainment
- 97.37 Air-conditioning or air-handling equipment
- 97.38 Standing motor vehicles

Motor Vehicle Noise

- 97.50 Motor vehicles operating on public right-of-way
- 97.51 Recreational motorized vehicles

Administration

- 97.60 Environmental Protection Officer; powers and duties
- 97.61 Departmental actions; cooperation
- 97.62 Project approval
- 97.63 Contracts
- 97.64 Right to review
- 97.65 Compliance with other laws

Enforcement

- 97.75 Notice of violation
- 97.76 Abatement orders
- 97.77 Citizen suits

- 97.99 Penalty

GENERAL PROVISIONS

' 97.01 SHORT TITLE.

This chapter may be cited as the Noise Control Code of the city.
(Ord. 2-1-00, passed 2-1-00)

' 97.02 FINDINGS AND POLICY; SCOPE.

(A) Declaration of findings.

(1) Excessive sound constitutes a menace to the public health and welfare and the quality of life.

(2) A substantial body of science and technology exists by which excessive sound may be substantially abated.

(3) The right of the people to an environment free from excessive unnecessary sound is established by KRS 224.710 through KRS 224.800.

(4) Excessive and unnecessary sound that may jeopardize human health or welfare or may substantially degrade the quality of life is well within the purview of this governing body=s police powers.

(B) Policy. It is the policy of the city to prevent, prohibit, and provide for the abatement of excessive and unnecessary noise which may injure the health or welfare of its citizens or degrade the quality of life.

(C) Scope. This chapter shall apply to the control of all sound originating within the limits of this jurisdiction.
(Ord. 2-1-00, passed 2-1-00)

' 97.03 DEFINITIONS.

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

(B) All terminology used in this chapter and not defined below shall be in conformance with applicable American National Standards Institute Publications, including but not limited to ANSI.1-1960, R 1971, or those from it successor publications or bodies.

AAGRICULTURAL PROPERTY.@ A parcel of real property of not less than ten contiguous acres in size, which is undeveloped for any use other than agricultural purposes.

AA-WEIGHTED SOUND PRESSURE LEVEL.@ The sound pressure level as measured with a sound level meter using the A-weighted network. The standard notation is dB(A) or dBA.

ACOMMERCIAL AREA.@ A zone including, but not limited to, limited service commercial, neighborhood shopping center, and central business district, where retail and wholesale business takes place with the general public.

ACONSTRUCTION.@ Any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or of public or private rights-of-way, structures, utilities, or similar property.

ACONTINUOUS SOUND.@ Any sound which exists, essentially without interruption, for a period of ten minutes or more.

ACUMULATIVE PERIOD.@ An additive period of time composed of individual time segments which may be continuous or interrupted.

ACYCLICALLY VARYING NOISE.@ Any sound which varies in sound level such that the same level is obtained repetitively at reasonably uniform intervals of time.

ADECIBEL (dB).@ A unit for describing the loudness of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter). Zero decibels is the threshold of human hearing. Ten decibels is ten times as loud as zero, 20 decibels is 100 times as loud as zero, and 130 decibels is the threshold of pain.

ADEMOLITION.@ Any dismantling, intentional destruction, or removal of structures, utilities public or private right-of-way surfaces, or similar property.

ADEPARTMENT.@ The State Department for Natural Resources and Environmental Protection or its successor agency.

ADEVICE.@ Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

AEMERGENCY.@ Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demand immediate action.

AEMERGENCY VEHICLE.@ A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

AEMERGENCY WORK.@ Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

AENVIRONMENTAL PROTECTION OFFICER@ or AEPO.@ The City Administrator or other municipal officer, as designated by the City Council, to enforce the provisions of this chapter.

AGROSS VEHICLE WEIGHT RATING@ or AGVWR.@ The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating, which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

AIMPULSIVE SOUND.@ Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

AINDUSTRIAL AREA.@ A zone including, but not limited to Industrial-1 and Industrial Park Zones, where the manufacture or processing of goods takes place.

AINTRUSIVE NOISE.@ That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends on its amplitude, duration, frequency and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.

ALICENSED.@ The possession of a formal license or a permit issued by the appropriate jurisdictional authority, or, where no permits or licenses are issued, the sanctioning of the activity by the jurisdiction as noted in public record.

AMOBILE NOISE SOURCE.@ Any noise source other than a stationary noise source.

AMOTORBOAT.@ Any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto (Section 651(d), Harbors and Navigation Code.)

AMOTORCYCLE.@ Any motor-driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, excluding tractors, and vehicles on which the operator and passengers ride in an enclosed cab.

AMOTOR VEHICLE.@ A four or more wheeled vehicle, or machine, propelled or drawn by mechanical power and used on the public roads and highways in the transportation of passengers or property, or any combination thereof, which is required to be licensed, but does not include any vehicle, locomotive, or car operated exclusively on rails.

AMUFFLER@ or ASOUND DISSIPATIVE DEVICE.@ A device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas from an internal combustion engine, and effective in reducing noise.

AMULTI-FAMILY DWELLING.@ A building or other shelter that has been divided into separate units to house more than one family.

ANOISE.@ Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

ANOISE DISTURBANCE.@ Any sound which, as judged by the Environmental Protection Officer, endangers or injures the safety or health of human beings or animals, annoys or disturbs reasonable persons of normal sensitivities, endangers or injures personal or real property, or violates the factors set forth in ' 97.15 through 97.38. Compliance with the quantitative standards as listed herein shall constitute elimination of a noise disturbance.

ANOISE SENSITIVE ZONE.@ Existing quiet zones until designated otherwise by the Environmental Protection Officer pursuant to the provisions of ' 97.36(H). Noise sensitive activities include, but are not limited to, operations of schools, libraries open to public, churches, hospitals, and nursing homes.

ANOISE ZONE.@ Any defined areas or regions of a generally consistent land use wherein the ambient noise levels are within a range of 5dB. Typically, all sites within any given noise zone will be of comparable proximity to major noise sources.

APOWERED MODEL VEHICLE.@ Any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car, or rocket.

APUBLIC RIGHT-OF-WAY.@ Any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity.

APUBLIC SPACE.@ Any real property or structures thereon normally accessible to the public.

APURE TONE.@ Any sound which can be judged as audible as a single pitch or a set of single pitches by the Environmental Protection Officer. For the purposes of this chapter, a APURE TONE@ shall exist if the 1/3-octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3-octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz. An example of a APURE TONE@ is the hum from an electric power transformer.

AREAL PROPERTY LINE.@ An imaginary line along the surface, and its vertical plane extension, which separates the real property owned, rented, or leased by one person from that owned, rented, or leased by another person, excluding intra-building real property division.

AREPETITIVE IMPULSIVE NOISE.@ Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at fast meter characteristics will show changes in sound pressure level greater than ten dB(A).

ARESIDENTIAL AREA.@ A zone including, but not limited to R1-D, R1-E, R2, R-3, or R-4, where the primary land use is habitation by humans as a residence.

ASOUND.@ The manifestation in air of a longitudinal wave created by a pressure fluctuation, which evokes an auditory sensation and can be measured with suitable instrumentation.

ASOUND AMPLIFYING EQUIPMENT.@ Any device for the amplification of the human voice, music, or any other sound, excluding standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, and as used in this chapter, warning devices on authorized emergency vehicles, or horns or other warning devices on any vehicle used only for traffic safety purposes.

ASOUND LEVEL.@ The weighted sound pressure level obtained by the use of metering characteristic and frequency weightings A, B, or C as specified in American National Standards Institute specifications for sound level meters, ANSI SI.4-1971, or its successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

ASOUND LEVEL METER.@ An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and the instrument must be of Type 2 or better, as specified in the American National Standards Institute Publication ANSI.4-1971, or its successor publications.

ASOUND PRESSURE.@ The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

ASOUND PRESSURE LEVEL.@ The logarithm times 20 to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} \text{N/tn}^2$). The ASOUND PRESSURE LEVEL@ is denoted L_p or SPL and is expressed in decibels.

ASTATIONARY NOISE SOURCE.@ A stationary device which creates sound while fixed or motionless, including but not limited to residential, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners, and refrigeration equipment.

AUSE DISTRICT.@ Those districts established by the appropriate city zoning code.
(Ord. 2-1-00, passed 2-1-00)

' 97.04 RECEIVING LAND USE NOISE LEVELS.

(A) It shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a sound level which exceeds the limits set forth in this division.

<u>Receiving Land Use</u>	<u>7:00 a.m. - 10:00 p.m.</u>	<u>10:00 p.m. - 7:00 a.m.</u>
Residential	55	50
Commercial	60	55
Industrial	65	65

(B) The sound levels set forth in this section shall be exceeded when any one or more of the following occur:

(1) The noise at any one point in time exceeds any of the established land use limits in division (A) by a measured sound level of 15 dB(A); or

(2) The noise exceeds any of the established land use limits in division (A) by a measured sound level of ten dB(A) for a cumulative total of one minute or more out of any ten minute period; or

(3) The noise exceeds any of the established land use limits in division (A) continually for a period of five minutes, or a total of five minutes out of any ten minute period.

(C) When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories. The classification of different areas of the community in terms of environmental noise zones shall be determined by the Environmental Protection Officer based on assessment of community noise survey data.

(D) (1) For any stationary source of sound that emits a pure tone, cyclically varying sound, or repetitive impulsive sound, the limits set forth in division (A) above shall be reduced by five dB(A).

(2) Notwithstanding compliance with division (D)(1), it shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.05 VARIANCES.(A) Special variances.

(1) The Environmental Protection Officer (EPO) is authorized to grant variances for exception from any provision of this chapter, subject to limitations as to area, noise levels, time limits, and other terms and conditions as the EPO determines are appropriate to protect the public health, safety, and welfare from the noise emanating therefrom. This section shall in no way affect the duty to obtain any permit or license required by law for such activities.

(2) The EPO will issue guidelines pursuant to ' 97.60(C)(1) approved by the appropriate authority, defining the procedures to be followed in applying for a variance and the criteria to be considered in deciding whether to grant a variance.

(B) Variances for time to comply. Within 90 days following the effective date of this chapter, the owner of any commercial or industrial source of sound may apply to the Environmental Protection Officer (EPO) for a variance in time to comply with the provisions of this chapter. The EPO shall have the authority, consistent with this section, to grant a variance not to exceed 180 days from the effective date of this chapter. The same procedures and consideration by the EPO as followed under division (A) above shall likewise apply.

(C) Appeals. Appeals of an adverse decision of the EPO shall be made to the Board of Adjustment.
(Ord. 2-1-00, passed 2-1-00)

' 97.06 PERMIT.

(A) Applications for a permit for relief from the noise restrictions in these regulations on the basis of undue hardship may be made to the city. Any permit granted by the city or its authorized representative shall contain all conditions on which the permit has been granted, including but not limited to the effective dates, any time of day, location, sound pressure level, or equipment limitation. The relief requested may be granted on good and sufficient evidence demonstrating that:

(1) Additional time is necessary for the applicant to alter or modify this activity or operation to comply with this chapter; or

(2) The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; and

(3) No reasonable alternative is available to the applicant.

(B) The city may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects on a community or the surrounding neighborhood.
(Ord. 2-1-00, passed 2-1-00)

PROHIBITED ACTS

' 97.15 GENERAL PROHIBITIONS.

In addition to the specific prohibitions outlined in '' 97.16 through 97.38 below, ' 97.04, and '' 97.75 through 97.77, it shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the limits of the city.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.16 RADIOS, TELEVISION SETS, AND SIMILAR DEVICES.

Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device which produces or reproduces sound:

(A) Between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a residential or commercial real property, line or at any time to violate the provisions of ' 97.04 or ' 97.29 except for activities for which a variance has been issued by the Environmental Protection Officer; or

(B) In such a manner as to exceed the levels set forth for public space in ' 97.04, measured at a distance of at least 50 feet (15 meters) from such device operating on a public right-of-way or public space.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.17 LOUDSPEAKERS.

Using or operating for any purpose any loudspeaker, loudspeaker system, or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property line, or at anytime violates the provisions of ' 97.04 or ' 97.29, except for any noncommercial public speaking, public assembly, or other activity for which a variance has been issued by the Environmental Protection Officer (EPO).
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.18 STREET SALES.

Offering for sale, selling anything, or advertising by shouting or outcry within any residential or commercial area or noise sensitive zone of the city except by variance issued by the Environmental Protection Officer (EPO). The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, or other similar licensed public entertainment events.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.19 ANIMALS.

Owning, possessing, or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential or commercial real property line or within a noise sensitive zone. This provision shall not apply to public zoos or animal shelters.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

Cross-reference:

Animals, see Ch. 90

' 97.20 LOADING AND UNLOADING.

Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property line or at anytime to violate the provisions of ' 97.04 and ' 97.29.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.21 CONSTRUCTION.

Operating or causing the operation of any tools or equipment used in construction drilling, repair, alteration, or demolition work between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays, or at any time on weekends or holidays, such that, the sound therefrom creates a noise disturbance across a residential or commercial real property line or at anytime violates the provisions of ' 97.04 and ' 97.29 except for emergency work of public service utilities or by variance issued by the Environmental Protection Officer. This section shall not apply to the use of domestic power tools as specified in ' 97.30.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.22 VEHICLE, MOTORBOAT, OR AIRCRAFT REPAIRS AND TESTING.

(A) Repairing, rebuilding, modifying, or testing any motorcycle or other motor vehicle, motorboat, or aircraft in such a manner as to create a noise disturbance across a residential real property line, or at anytime to violate the provisions of ' 97.04 or ' 97.29.

(B) Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to applicable federal laws or regulations.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.23 HORNS AND SIGNALING DEVICES.

Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle, or other vehicle on any street or public place within the county or any city therein except as a danger warning signal as provided in the state statutes, or the sounding of any signaling device for an unnecessary and unreasonable period of time. (Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.24 EXPLOSIVES, FIREARMS, AND SIMILAR DEVICES.

Using or firing explosives, firearms, or similar devices such that the sound therefrom creates a noise disturbance across a real property line, or within a noise sensitive zone, public space, or public right-of-way, without first obtaining a variance issued by the Environmental Protection Office. A variance need not be obtained for licensed game-hunting activities on property where those activities are authorized.

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.25 POWERED MODEL VEHICLES.

Operating or permitting the operation of power model vehicles:

(A) Between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to create a noise disturbance across a residential or commercial real property line or at anytime to violate the provisions of ' 97.04 or ' 97.29; or

(B) In such a manner as to exceed the levels set forth for public space land use in ' 97.04 measured at a distance not less than 100 feet (30 meters) from any point on the path of a vehicle operating on public space or public right-of-way.

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.26 STATIONARY NON-EMERGENCY SIGNALING DEVICES.

(A) Sounding or permitting the sounding of any electronically-amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, for more than ten seconds in any hourly period.

(B) Houses of religious worship shall be exempt from this provision.

(C) Sound sources covered by this provision and not exempted under division (B) may be exempted by a variance issued by the Environmental Protection Office.

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.27 EMERGENCY SIGNALING DEVICES.

(A) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing as provided in division (B).

(B) (1) Testing of a stationary emergency signaling device shall not occur before 7:00 a.m. or after 7:00 p.m. Any such testing shall only use the minimum cycle test time. In no case shall such test time exceed 60 seconds.

(2) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7:00 a.m. or after 10:00 p.m. The time limit specified in division (B)(1) shall not apply to such complete system testing.

(C) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within 15 minutes of activation.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.28 MOTORBOATS.

Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in a manner as to cause a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of ' 97.04 or ' 97.49.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.29 NOISE SENSITIVE ZONES.

(A) Creating or causing the creation of any sound within any noise sensitive zone, so as to exceed the residential land-use levels set forth in ' 97.04 when measured at a distance of at least 25 feet (7.5 meters) from the sound source, provided that conspicuous signs are displayed indicating the presence of the zone;

(B) Creating or causing the creation of any sound within or adjacent to any noise sensitive zone, containing a hospital, nursing home, school, court, or other designated area, so as to interfere with the functions of such activity or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.30 DOMESTIC POWER EQUIPMENT.

Operating or permitting to be operated any power equipment rated five horsepower or less used for home or building repair or grounds maintenance, including, but not limited to power saw, sander, lawn mower, garden equipment, or snow removal equipment, in residential or commercial zones:

(A) Outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day;

(B) Any such power equipment which emits a sound pressure level in excess of 74 dB(A) measured at a distance of 50 feet (15 meters). (Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.31 COMMERCIAL POWER EQUIPMENT.

Operating or permitting to be operated, any power equipment, except construction equipment used for construction activities, rated more than five horsepower, including but not limited to chain saws, pavement breakers, log chippers, and powered-hand tools:

(A) In residential or commercial land use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day;

(B) In any land use district if such equipment emits a sound pressure level in excess of 82 dB(A) measured at a distance of 50 feet (15 meters).
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.32 VIBRATION.

Operating or permitting the operation of any device that creates a vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 150 feet (46 meters) from the source if on a public space or public right-of-way.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.33 RACING EVENTS.

Permitting any motor vehicle racing event at any place in such a manner as to violate ' 97.04 or cause a noise disturbance, without first obtaining a permit as provided by ' 97.06.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.34 DEFECTIVE VEHICLE.

Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of disrepair or manner of operation, violates ' 97.04 or causes a noise disturbance.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.35 REFUSE COMPACTING VEHICLES.

The operating or causing or permitting to be operated or used any refuse compacting vehicle which creates a sound pressure level in excess of 74 dB(A) at 50 feet (15 meters) from the vehicle. The collection of garbage, waste, or refuse between the hours of 9:00 p.m. an 7:00 a.m. the following day in, or within 300 feet of, an area zoned residential.

(Ord. 2-1-00, passed 2-1-00)

' 97.36 PLACES OF PUBLIC ENTERTAINMENT.

Operating or permitting to be operated, any loudspeaker or other source of sound in any place of public entertainment that exceeds 96 dB(A) at any time normally occupied by a customer, without a conspicuous and legible sign stating AWARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT.@

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.37 AIR-CONDITIONING OR AIR-HANDLING EQUIPMENT.

Operating or permitting the operation of any air-conditioning or air-handling equipment in such a manner as to exceed any of the following sound levels when measured as specified in the Code of Recommended Practices:

<u>Measurement Location</u>	<u>dB (A)</u>
Any point on neighboring property line.	60
Outside the neighboring living area window nearest the equipment location.	55

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.38 STANDING MOTOR VEHICLES.

The operating or causing or permitting to be operated any motorcycle or other motor vehicle or any auxiliary equipment attached thereto in such a manner as to violate ' 97.04 or cause a noise disturbance for a consecutive period longer than 15 minutes during which such vehicle is stationary in a residential zone.

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

MOTOR VEHICLE NOISE

' 97.50 MOTOR VEHICLES OPERATING ON PUBLIC RIGHT-OF-WAY.

(A) No person shall drive, or move, or cause, or knowingly permit to be driven or moved any motorcycle or other motor vehicle or combination of vehicles at any time in a manner as to exceed the following noise limits for the category of motor vehicle shown below.

Noise shall be measured at a distance of at least 25 feet (7.5 meters) from the near side of the nearest lane being monitored and at a height of at least four feet (1.2 meters) above the immediate surrounding surface.

<u>Motor Vehicles or Combination of</u>	<u>Sound Pressure Level, db(A)</u>	
	<u>Speed Limit 40 MPH or Less</u>	<u>Speed Limit Over 40 MPH</u>
Motor vehicle with a manufacturers gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or any combination of vehicles towed by such motor vehicle.	90	94
Any other motor vehicle or any combination of vehicles towed by any motor vehicle.	80	84
Any motorcycle.	80	84

(B) This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this chapter relating to motor vehicle mufflers for noise control.

(C) No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:

(1) Free from defects which affect sound reduction;

(2) Equipped with a muffler or other noise dissipative device;
and

(3) Not equipped with any cut-out, by-pass, or similar device.
(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

' 97.51 RECREATIONAL MOTORIZED VEHICLES.

No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound levels emitted therefrom violate the provisions of ' 97.04 or ' 94.29. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft, campers, and dune buggies, but not including motorboats.

(Ord. 2-1-00, passed 2-1-00) Penalty, see ' 97.99

ADMINISTRATION

' 97.60 ENVIRONMENTAL PROTECTION OFFICER; POWERS AND DUTIES.

(A) The noise control program established by this chapter shall be administered by the Environmental Protection Officer (EPO).

(B) In order to implement and enforce this chapter and for the general purpose of noise abatement and control, the EPO shall have, in addition to any other authority lawfully granted, the following powers:

(1) Studies. Conduct, or cause to be conducted, studies, research, and monitoring related to noise, including joint cooperative investigation with public or private agencies, and the application for, and acceptance of, grants.

(2) Education.

(a) Conduct programs of public education regarding:

1. The cause, effects of noise, and general methods of abatement and control of noise; and

2. The actions prohibited by this chapter and the procedures for reporting violations; and

(b) Encourage the participation of public interest groups in related public information efforts; and

(c) Provide for training of field inspectors and other technical personnel concerned with noise abatement (In conformance with guidelines for technical qualifications as set forth by the State Department for Natural Resources and Environmental Protection).

(3) Coordination and cooperation.

(a) Coordinate the noise control activities of all municipal departments;

(b) Cooperate where participants with all appropriate state and federal agencies;

(c) Cooperate or combine where practicable with appropriate county and municipal agencies;

(d) Enter into contracts with the approval of the appropriate authority for the provision of technical and enforcement services; and

(e) Advise on the availability of low noise emission products for replacement or retrofit of existing or planned city owned or operated equipment.

(4) Actions of other departments. Request any other department or agency responsible for a proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this chapter.

(5) Public and private projects. On all public and private projects which are likely to cause sound in violation of this chapter and which are subject to mandatory review or approval by other departments:

(a) Review for compliance with the intent and provisions of this chapter;

(b) Require sound analyses which identify existing and projected noise sources and associated sound levels;

(c) Require usage of adequate measures to avoid violation of any provision of this chapter.

(6) Inspections. On presentation of proper credentials, enter or inspect any private property, place, report, or records at any time granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction on showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

(7) Product performance standard recommendations. Develop and recommend provisions regulating the use and operation of any product, including the description of maximum sound emission levels of such product, but not in such a manner as to conflict with federal or state new product regulations.

(8) Noise sensitive zone recommendations. Prepare recommendations to be approved by the City Council, for the designation of noise sensitive zones which contain noise sensitive activities.

(9) Zoning changes. Prior to the approval of any zoning changes:

(a) Review the noise impact of the zoning change by identifying existing and projected noise sources and the associated sound levels;

(b) Require usage of adequate measures on noise sources identified in division (B)(9)(a) above which will be in violation of any provision of this chapter.

(C) In order to effectively implement and enforce this chapter, the EPO shall within a reasonable time after the effective date of the chapter:

(1) Measurement standards and enforcement procedures.

(a) Develop measurement standards and procedures which will further the purposes of this chapter.

(b) Develop administrative procedures which will provide for effective enforcement of this chapter.

(2) Investigate and pursue violations. Under procedures set forth in division (B)(6) of this section, ' ' 97.75 through 97.77, and other provisions of this chapter investigate and pursue possible violations of this chapter.

(3) Delegation of authority. Delegate functions, where appropriate under this chapter, to personnel within the Environmental Protection Office and to other departments, subject to approval of City Council.

(4) Community noise program.

(a) Assist in the preparation or revision thereof, of the city noise program following guidelines set forth by the Department.

(b) Assist in or review the total transportation planning of the community, including planning for new roads and highways, bus routes, airports, and other systems of public transportation, to insure that proper consideration is taken with regard to the impact of sound levels and that the policies set forth in the noise program are adhered to.

(c) Provide ongoing assistance to local agencies in determining possible corrective measures for current or projected noise problems.

(5) State and federal laws and regulations. Make recommendations for modifications or amendments to this chapter to ensure consistency with all state or federal laws and regulations.

(6) Planning to achieve long term noise goals. Develop a long term plan for achieving quiet in the city and, with approval of City Council, integrate this plan into the planning process of the city.

(7) Administer grants, funds, and gifts. Administer noise program grants, funds, and gifts from public and private sources, including the state and federal governments.
(Ord. 2-1-00, passed 2-1-00)

' 97.61 DEPARTMENTAL ACTIONS; COOPERATION.

(A) All departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in a manner as to further the policy of this chapter.

(B) All departments and agencies shall cooperate with the Environmental Protection Office to the fullest extent in enforcing this chapter.

(Ord. 2-1-00, passed 2-1-00)

' 97.62 PROJECT APPROVAL.

All departments whose duty it is to review and approve new projects or changes to existing projects, that result, or may result, in the production of sound levels which would be in violation of this chapter shall consult with the Environmental Protection Office prior to any approval.

(Ord. 2-1-00, passed 2-1-00)

' 97.63 CONTRACTS.

Any written contract, agreement, purchase order, or other instrument whereby the city is committed to the expenditure of \$1,000 or more in return for goods and services shall contain provisions requiring compliance with this chapter.

(Ord. 2-1-00, passed 2-1-00)

' 97.64 RIGHT TO REVIEW.

If at any time the Environmental Protection Officer (EPO) has reason to believe that a standard regulation, or action or proposed standard, regulation, or action of any department respecting noise does not conform to the intent of ' 97.02, he may request that department to review and report to him on the advisability of revising that standard or regulation to conform.

(Ord. 2-1-00, passed 2-1-00)

' 97.65 COMPLIANCE WITH OTHER LAWS.

All departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this chapter respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

(Ord. 2-1-00, passed 2-1-00)

ENFORCEMENT

' 97.75 NOTICE OF VIOLATION.

(A) Except where a person is acting in good faith to comply with an abatement order issued pursuant to ' 97.76(A), a violation of any provision of this chapter shall be cause for a notice or violation, summons, complaint, information, or indictment to be issued by the Environmental Protection Officer (EPO) or other responsible enforcement agency or official according to procedures which the EPO may prescribe.

(B) No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.
(Ord. 2-1-00, passed 2-1-00)

' 97.76 ABATEMENT ORDERS.

(A) Except as provided in division (B) below, in lieu of issuing a notice of violation as provided for in ' 97.75, the Environmental Protection Office or other agency or official responsible for enforcement of any provision of this chapter may issue an order requiring abatement of a sound source alleged to be in violation, within a reasonable time period and according to guidelines (to be approved by the City Council) which the EPO may prescribe.

(B) An abatement order shall not be issued:

(1) For any violation covered by ' 97.99(B); or

(2) When the Environmental Protection Officer (EPO) or other enforcement official has reason to believe that there will not be compliance with an abatement order.
(Ord. 2-1-00, passed 2-1-00)

' 97.77 CITIZEN SUITS.

(A) After 30 days formal notice of complaint to the enforcing agency, any citizen of the city may bring and maintain an action for injunctive relief to compel enforcement of this chapter.

(B) Division (A) above does not prevent any person from commencing a civil action on his own behalf against any person who is alleged to be in violation of any provision of this chapter.
(Ord. 2-1-00, passed 2-1-00)

' 97.99 PENALTY.

(A) Any person who violates any provisions of this chapter shall be guilty of a violation and shall be fined not less than \$25 for each offense.

(B) Any person shown willfully or knowingly violating any provision of this chapter shall be guilty of a misdemeanor and shall be fined for each offense a sum of not less than \$100 and not more than \$500 or imprisoned for a period not to exceed 30 days, or both.

(C) Each day of violation of any provision of this chapter shall constitute a separate offense.
(Ord. 2-1-00, passed 2-1-00)