

**ORDINANCE # 251, 2<sup>nd</sup> Series**

**AN ORDINANCE AMENDING SECTIONS 10.03, 10.04, 10.08, 10.10, 10.21, 10.26 and 10.29 IN CHAPTER 10, PUBLIC PROTECTION, CRIMES AND OFFENSES, OF CITY CODE**

**IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF BECKER MINNESOTA:**

**Chapter 10 is hereby amended to read as follows:**

**SEC. 10.03. UNLAWFUL USE AND FURNISHING OF TOBACCO.**

**Subd. 1.** It is a petty misdemeanor for any person, under the age of **twenty one** to use, purchase or attempt to purchase tobacco or tobacco related devices **or electronic delivery devices** as those terms are defined in Minnesota Statutes Section 609.685, as amended.

**Subd. 2.** It is a **petty** misdemeanor for any person to **sell**, furnish, by any manner or means, tobacco, tobacco related devices **or electronic delivery devices**, as those terms are defined in Minnesota Statutes Section 609.685, as amended, to any person under the age of **twenty one** years. **Subsequent violations within 5 years of a prior conviction is guilty of a misdemeanor.**

~~**Subd. 3.** It is a gross misdemeanor for any person to sell tobacco, as defined in Minnesota Statutes Section 609.685, as amended, to any person under the age of eighteen years.~~

**SEC. 10.04. DANGEROUS WEAPONS AND ARTICLES.**

**Subd. 1. Acts Prohibited.** It is unlawful for any person to:

- A.** Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
- B.** Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
- C.** Manufacture or sell for any unlawful purpose any weapon known as a **sl**ing-shot or sand club; or,
- D.** Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,
- E.** Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,

- F. Sell or have in his or her possession any device designed to silence or muffle the discharge of a firearm, Unless said device is designed as a firearm silencer or suppressor, and the person possesses it lawfully under federal law; or,
- G. Permit, as a parent or guardian, any child under fourteen years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or,
- H. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department; or,
- I. Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck, sharp stud or splat gun unless with written approval from the Chief of Police. For the purposes of this Subparagraph,
  - (1) a "throwing star" means a circular metallic device with any number of points projecting from the edge,
  - (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod,
  - (3) a "sharp stud" means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed, and
  - (4) a "splat gun" means a weapon which, by means of compressed air or gas, emits a projectile containing paint or other substance.

**Subd. 2. Exception.** Nothing in Subdivision I of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

**Subd. 3. Explosives and Fireworks.** It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in Subdivision 4 of this Section, any cannon, firecracker, sky rocket or other fireworks or explosives.

**Subd. 4. Exception.** Nothing in Subdivision 3 of this Section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council.

**Subd. 5. Exposure of Unused Container.** It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to be exposed and accessible to children, without removing the doors, lids, hinges or latches.

**Subd. 6. Use of Bow and Arrow.** It is unlawful for any person to shoot a bow and arrow or other similar device within the City limits except in a Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, a bow and arrow range authorized by the Council, or on private property south of State Highway No. 10, provided such person has in his or her possession written permission to do so, signed by an authorized representative of the private property owner.

## **SEC. 10.08. ADMINISTRATIVE CITATIONS AND PENALTIES**

**Subd. 1. Purpose:** It is the intent of the City of Becker to establish a procedure to provide an informal, cost-effective and expeditious alternative to traditional criminal citations for violations of certain petty misdemeanors and city code violations. The procedures herein established are intended to be voluntary on the part of the offending party. Any offender may, prior to payment of the administrative penalty, herein established, withdraw from participation in the procedures established in this ordinance and the City of Becker may thereafter file criminal charges in accordance with state law and established court procedures. It shall be the discretion of the City of Becker to file a criminal citation in the Sherburne County District Court in lieu of following the administrative procedures established in this ordinance. If an offending party elects to participate in the administrative procedures established in this ordinance but fails to pay the applicable monetary penalty, the City of Becker shall have the right to file a criminal citation in the Sherburne County District Court and to pursue collection of all costs associated with the administrative procedure herein established.

**Subd. 2. Definition of Administrative Offense.** An administrative offense is a violation of any of the offenses hereinafter set out and is subject to the administrative penalties set forth in the schedule included in this ordinance.

**Subd. 3. Notice to Offending Party.** Any sworn member of the Police Department or any other person designated by the City Council to enforce this ordinance shall, upon determining there has been a violation of an offense set out in this ordinance, provide a written notice to the offending party. The written notice shall set forth the specific offense that has been committed, the date and time of the violation and the name of the officer or other employee of the City issuing the written notice. The notice shall further state the amount of the penalty, the date the penalty must be paid, and the place where payment must be made. In the event the violation is in the nature of a parking violation and the owner or operator of the offending vehicle is not present, the officer or other designated employee of the City, shall attach ~~the written~~ notice of the violation to the windshield wiper or door handle of the ~~vehicle that indicates an administrative citation will be mailed to the registered owner of the vehicle.~~

**Subd. 4. Payment of Penalty.** All persons receiving a written notice of violation in accordance with this ordinance shall make payment of the penalty set out in the ordinance within seven days of the date of issuance of the notice of violation. Payment shall be made by mail or in person to the City Clerk or to the Becker Police Department.

**Subd. 5. Failure of Offending Party to Pay.** In the event an offending party shall fail to pay the penalty for the designated offense as set out in this ordinance, the issuing officer may then file a citation or formal complaint with the Sherburne County District Court.

**Subd. 6. Offenses and Penalties.** The offenses that are included in this ordinance and the penalties for violation thereof are set out below. The council shall from time to time, by resolution, set the amount of the penalty associated with the offense.

| <b>Offense Description</b>                                      | <b>Penalty</b>                       | <b>Authority</b>              |
|---|--------------------------------------|-------------------------------|
| Tobacco Possession by Minor                                     | \$50.00                              | Ord 6.20 (s9d)                |
| Uncut Grass or Weeds  | \$50.00                              | Ord 10.21 (s6)                |
| Dog running at large  | \$25.00                              | Ord 10.06 (s2)                |
| Dog License Required  | \$25.00                              | Ord 10.06 (s3)                |
| Dog barking   | \$25.00                              | Ord 10.06 (s12-4)             |
| Parking in Front of Driveway                                    | \$25.00                              | Ord 9.02 (2)<br>SS169.35:A(2) |
| Parking within 10 feet of Hydrant                               | \$25.00                              | Ord 9.02 (4)<br>SS169.34:A(4) |
| Parking on posted fire lane                                     | \$25.00                              | Ord 9.02 (7)                  |
| Parking on street in winter                                     | \$25.00                              | Ord9.03 (s4)                  |
| Parking in yard   | \$20.00                              | Ord 11.20 (s4)                |
| Parking in Handicap Space                                       | \$100.00                             | Ord 9.27 (s2)<br>SS169.346    |
| Parking on Sidewalk   | \$25.00                              | Ord 9.02 (1)                  |
| Parking Wrong Way   | \$25.00                              | Ord 7.04 (s4)                 |
| Parking When Snow in Street                                     | \$25.00                              | Ord 9.03 (s5)                 |
| Parking in no parking zone                                      | \$25.00                              | Ord 9.02 (14)                 |
| Parking beyond 24 hours in city lot                             | \$25.00                              | Ord 9.21                      |
| Temporary sign violation  | \$50.00                              | Ord 11.70 (s6)                |
| Illegal Dumping   | \$100.00                             | SS609.68                      |
| Odd / Even watering – 1 <sup>st</sup> Violation                 | Warning                              | Ord 3.20 (s6)                 |
| Odd / Even watering – 2 <sup>nd</sup> Violation                 | \$50.00                              | Ord 3.20 (s6)                 |
| Odd / Even watering – 3 <sup>rd</sup> and Subsequent Violations | \$100.00                             | Ord 3.20 (s6)                 |
| Disorderly Conduct  | \$50.00                              | Ord 10.31                     |
| Disorderly Conduct at School                                    | \$50.00                              | Ord 10.32                     |
| Junk Storage  | \$50.00                              | Ord 10.01 (s5a)               |
| Refuse Storage  | \$50.00                              | Ord. 10.01 (s3a)              |
| Curfew – 15 years of age or younger 10:00 p.m.                  | \$50.00                              | Ord 10.30 (s1)                |
| Curfew – 16 and 17 years of age 12:00 p.m.                      | \$50.00                              | Ord 10.30 (s2)                |
| Curfew – parents allow  | \$50.00                              | Ord 10.30 (s3)                |
| False Alarm (4 <sup>th</sup> Response)                          | \$50.00 (Police)<br>\$100.00 (Fire)  | Ord 10.09                     |
| False Alarm (5 <sup>th</sup> Response)                          | \$100.00 (Police)<br>\$200.00 (Fire) | Ord 10.09                     |
| False Alarm (6 <sup>th</sup> Response)                          | \$200.00 (Police)<br>\$400.00 (Fire) | Ord 10.09                     |

|  |                |                        |
|--|----------------|------------------------|
| Public nuisance                          | \$50.00        | Ord 10.44              |
| Noise violation                          | \$50.00        | Ord 10.29              |
| <b>Prohibited Burning</b>                | <b>\$25.00</b> | <b>Ord. 10.26 (s3)</b> |
| Specialty Vehicles – Equipment Violation | \$50.00        | Ord 8.11 (s1 F)        |
| Specialty Vehicles – No Permit           | \$75.00        | Ord 8.22 (s2B)         |
| Specialty Vehicles – Use in City Park    | \$50.00        | Ord 8.11 (s1C)         |

§10.08

*Source: Ordinance 137, 2<sup>nd</sup> Series, Effective Date: April 27, 2009*

*Source: Ordinance 140, 2<sup>nd</sup> Series, Effective Date: September 21, 2009*

*Source: Ordinance 145, 2<sup>nd</sup> Series, Effective Date: February 1, 2010*

*Source: Ordinance 185, 2<sup>nd</sup> Series, Effective Date: December 27, 2016*

*Source: Ordinance 208, 2<sup>nd</sup> Series, Effective Date: December 24, 2018*

*Source: Ordinance 238, 2<sup>nd</sup> Series, Effective Date: July 12, 2021*

## SEC. 10.10. SYNTHETIC CANNABINOIDS PROHIBITED

**Subd. 1. Jurisdiction.** This chapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

**Subd. 2. Definition.** For purposes of this Section, “synthetic cannabinoid” shall mean:

(1) A synthetic equivalent of the substance contained in the Cannabis plant, or in the resinous extractives of the genus Cannabis, or a synthetic substance, derivative, or its isomers with similar chemical structure or pharmacological activity **as described in Statute 152.02 Sub. 2 (3).**

~~(A) 1-Pentyl 3-(1-naphthoyl) indole; some trade or other names; also known as JWH-018;~~

~~(B) 1-Butyl 3-(1-naphthoyl) indole; some trade or other names; also known as JWH-073;~~

~~(C) Phenol, CP 47, 497 and homologues, or 2-———[(1R,3S)] [hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol, where side chain n=5, and homologues where side chain n=4, 6 or 7;~~

~~(D) Any similar structural analogs;~~

(2) Products, by whatever trade name, that are treated, sprayed, or saturated with one or more of the above chemicals. Some currently marketed products containing synthetic cannabinoids identified in subdivision (1) include K2, Spice, Mojo, Smoke, Genie, Yucatan Fire, Diamond Spice, Red Dragon Smoke, Skunk, K2 Summit and Pandora Potpourri;

**Subd. 3 Prohibited acts.** No person shall use, possess, purchase, sell, give away, barter, exchange, dispense, deliver, distribute or manufacture any synthetic cannabinoid, as defined in this Chapter, within the city;

**Subd. 4 Exceptions.** Acts otherwise prohibited under this Chapter shall not be unlawful if performed by or under the direction of a licensed physician, dentist or other medical health professional authorized to direct or prescribe such acts.

*Source: Ordinance 151, 2<sup>nd</sup> Series, Effective Date: November 15, 2010.*

(Sections 10.11 through 10.19, inclusive, reserved for future expansion.)

## **SEC. 10.21. MAINTENANCE OF PRIVATE PROPERTY.**

**Subd. 1. Purpose.** It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain the property in such a manner so as not to constitute or create a public nuisance or degrade the value of the neighborhood.

### **Subd. 2. Definitions.**

- A. “Woodland”** means an area of coniferous or deciduous trees interspersed with shrubs, grasses, broad-leaf plants, and other vegetation, excluding noxious weeds, which are native or adaptive to the State of Minnesota.
- B. “Turfgrasses”** means an area of land, which is occupied by a minimum of 90% of turfgrasses. Turfgrasses are commercially available cultured turfgrass varieties including blue grass, fescue, rye grass blends, commonly used in regularly cut lawn areas.
- C. “Regularly cut,”** means mowing or otherwise cutting vegetation so it does not exceed 6 inches in height. *Source: Ordinance 223, 2<sup>nd</sup> Series, Effective May 11, 2020*
- D. “Noxious Weeds”** means those plants designated as such by Minnesota Statutes Section 18.171, subd.5 or as amended.
- E. “Property”** means all lots or parcels within the city.
- F. “Vegetation”** means any non-woody plant.

**Subd. 3. Lawn Maintenance.** All disturbed or occupied areas, which are not covered by buildings, storage, landscape beds or other physical improvements, shall be covered by maintainable turfgrasses.

- A.** Prior to establishment of the turfgrass the lot shall be brought to grade by the installation of no less than 3 inches of topsoil. Topsoil shall be black dirt with no more than thirty-five percent (35%) sand. It is the duty of all property owners to establish a lawn within eight (8) months of issuance of the Certificate of Occupancy

or twelve (12) months of issuance of building permit, whichever is earlier. Turf Grasses which are drought resistant, such as Fescue varieties, are preferred. The property owner shall be responsible for supplemental watering of all areas established with turf grass to ensure sufficient establishment and root development. All areas shall have sufficient ground cover as to prevent erosion. At the discretion of the city a shorter time period may be imposed.

- B.** Prior to issuance of a Building Permit for a single and two family residential structure, the applicant shall provide an escrow of two thousand dollars (\$2,000.00) per lot to the city to be held in escrow. The escrow shall be released as follows:

Front and Side Yard. Once sod is completed or seeding has taken and substantial growth has occurred for the entire front and side yards none hundred fifty dollars (\$950.00) of the escrow shall be returned to the applicant, applicant's replacement or property owner with proper documentation.

Rear Yard. Nine hundred fifty dollars (\$950.00) of the escrow will be returned to the applicant, applicant's replacement or property owner with proper documentation once either of the following occur:

1. Sod is completed or seeding has taken and substantial growth has occurred on the entire rear yard, or
2. Seed has been placed on the entire rear yard and the applicant or applicant's replacement has provided proof of sale of the property to the City.

One hundred dollars (\$100.00) of the original two thousand dollars (\$2000.00) escrow will be retained by the City of Becker for administration of the program.

*Source: Ordinance 148 2<sup>nd</sup> Series, Effective Date: March 29, 2010*

**Subd. 4. Native grasses or gardens.** No more than 50% of all disturbed areas may be restored to native grasses or wildflowers indigenous to the State of Minnesota, which are planted and maintained on any property, as part of a garden, or landscape treatment. A minimum width of three (3) feet of turfgrass shall be established and maintained along the edge of the property and abutting both sidewalk and roadway if native grasses are to be used.

**Subd. 5. Woodland preserve or restoration.** No more than 50% of areas within the lot can be devoted to woodlands. Property owners must trim and maintain the woodland areas such that public ways are kept clear for passage.

**Subd. 6. Turfgrass maintenance.**

1. All property within the City of Becker shall have turfgrass maintained through regularly cutting to prevent grass vegetation from exceeding 6 inches. *Source: Ordinance 224, 2<sup>nd</sup> Series, Effective June 22, 2020*

2. On vacant property where mowing of grass is physically difficult because of topography or other physical constraints the height requirement as in paragraph (1) shall only apply to a six (6) foot strip of land abutting roadways or developed properties.
3. Paragraph Subd 5, (1) above shall not apply to the following:
  - a. Highway ditches.
  - b. Railroad track ditches.
  - c. Agricultural areas
  - d. Designated wetlands areas (based on DNR standards).
  - e. Large tracts of undeveloped land.
  - f. Residential subdivisions that are less than 50% developed **except** where lots abut developed and improved property. In this instance paragraph two (2) above shall apply.
  - g. Designated areas in City Parks.
  - h. Up to a 50-foot buffer surrounding drainage ponds, water quality ponds, streams, lakes and floodplain areas.
  - i. Woodlands.

**Subd. 7. Trimming plants at intersections.** The owner or occupant of any property lying and abutting any intersection of two streets, and having shrubs or bushes on such property, shall trim or cause to be trimmed bushes or shrubbery so that they shall not exceed three (3) feet in height. The area included in this restriction is defined by a triangle, created 20 feet back from the intersection of property lines on both sides.

**Subd. 8. Public nuisances.** The following shall constitute a public nuisance and shall be immediately abated by the property owner:

- A. Noxious weeds.
- B. Vegetation in violation of Subd. 5 above.
- C. All insect infested or diseased trees.
- D. Accumulation of materials which would harbor rodents.
- ~~E. Accumulations of trash, rubbish, cans or other debris.~~



**Subd. 9. Removal by city and cost recovery.**

- A. Notification Procedure.** The owners of record failing to maintain weeds or turf grasses as required in this section shall be given notice in writing, to have such violations corrected within ten (10) calendar days of the date such notice is mailed. Lack of receiving a notice, inability of the Post Office to deliver such notice, to the address of record, or the owner is unaware of the requirement to keep turf grasses mowed shall not constitute a defense for to the maintenance requirement. The notice must also advise the owner that if the owner fails to comply the City will cause the violation to be corrected and the cost of removal will be assessed against the property. *Source: Ordinance 47, 2<sup>nd</sup> series, Effective Date: 7-17-00*
- B. Removal and cost recovery.** If the owner fails to comply with the 10 day notice the City Administrator or designated official shall cause the weeds or turf to be cut. They shall keep a record showing the cost of such work attributable to each property and shall deliver this to the city treasurer to be assessed against the property. Assessable costs shall include administration costs associated with the assessment process. *Source: Ordinance 44, 2<sup>nd</sup> series, Effective Date: 3-25-00*

**Subd. 10 B. Assessment.** The process of cost recovery and assessment is established under section 7.08, Subd. 5 of the Code. *Source: Ordinance 47, 2<sup>nd</sup> series, Effective Date: 7-17-00*

**SECTION 10.26 OPEN BURNING**

**Subd. 1. Definitions.**

- A. Camp Fire:** A fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had the ground five (5) feet from the base of the fire cleared of all combustible material.
- B. Open Fire:** “Open Fire” or “Open Burning” shall mean a fire burning in matter, whether concentrations or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.
- C. Running Fire:** An attended fire that is allowed to spread through surface vegetative materials under controlled conditions. Its purpose is that of vegetative management, forest management, game habitat management or agricultural improvement.
- D. Recreational Fire:** A camp fire which meets specifications as set forth in, Section 10.26, Subdivision 2.
- E. Wood:** Dry, clean fuel only such as twigs, branches, limbs, “presto logs”, charcoal, cordwood or untreated dimensional lumber. Wood does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or

preservatives. Clean pallets may be used for recreational fires when cut into no **greater** than three (3) foot lengths.

**Subd. 2 - Recreational Fires Permitted** Recreational fires are permitted within the city limits. They can take place at any time during the day and do not require an open burning permit. Recreational fires must meet the following requirements:

- A. Site Requirements.** An area of no more than a three (3) foot diameter circle (measured from the inside of the fire ring or border) completely surrounded by non-combustible and non-smoke or odor producing material either of natural rock, cement, brick, tile, block or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor burning fire places. Recreation fire sites shall not be located closer than twenty (20) feet of a structure or fence.
- B. Burn Requirements.** When a camp fire is used for recreational purposes, it must be ignited with an approved starter fluid using dry, clean Wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisances, health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as camp or recreational fires, and are not covered under this section of the code.

**Subd. 3 Prohibited Burning.** No person shall be authorized to burn vegetative matter such as leaves and branches in residential lots. The use of Burners (Burning Barrels) is also prohibited. In addition, burning of the following materials is illegal at any time:

- A.** Oils, rubber, plastics, chemically treated materials, or other materials that produce excessive or noxious smoke or odors.
- B.** Hazardous waste.
- C.** Burnable building materials from demolition.
- D.** Industrial solid waste generated from an industrial or manufacturing process, or from a service or commercial structure.
- E.** Motor vehicles or conduit salvage operations by open burning.
- F.** Garbage from the handling, procession, storage, preparation, serving or consumption of food.
- G.** Painted or treated wood.

**Subd. 4. Special Open Burning Permits.**

- A. No person shall start or allow any open burning on any property in the city without first having obtained an Special Open Burn Permit, except that a permit is not required for recreational fires as defined herein.
- B. Open Burn Permits shall be obtained from the Fire Chief or his designee.
- C. Eligible Open Burning Permit situations include instances such as Clearing of land or the installation of a development, brush piles as created by the City Public Works or Golf departments or similar burns as determined by the Fire Chief or his designee or as included in the exceptions as specified in Subdivision 10.

**Subd. 5 Special Open Burning Permits Procedure.**

- A. Applications for a special burn must be accomplished on a state form.
- B. The site must be reviewed to determine if a burn can be accomplished safely at the proposed burn site.
- C. The length and any special conditions of the Special Burn Permit shall be determined by the Fire Chief or his designee. Any burn which occurs between 8:00 AM and 8:00 PM must be accomplished with a notification to the local Department of Natural Resources and the County Sheriff, along with the fire chief.
- D. Special Open Burn Fee. To offset costs experienced in managing the Special Open Burn Permit a fee of \$25.00 shall be paid to the fire department

**Subd. 6. Revocation of Special Open Burn Permit.** The Special Open Burning Permit shall be subject to revocation at the discretion of the Fire Chief or his designee. Reasons for revocation include, but are not limited to: a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, or pollution or nuisance conditions developing during the course of the burn.

**Subd. 7. Denial of a Special Open Burning Permit.** If established criteria for the issuance of an open burning permit are not met, or during review of said application, it is determined that a practical alternative method of disposal of the material exists, or a pollution or nuisance condition would result, then the Fire Chief, or designee of the Fire Chief may deny the Special Open Burning Permit Application.

**Subd. 8. Burning Ban or Air Quality Alert.** No camp or recreational fire or open burning will be permitted when the City or the Department of Natural Resources has officially declared a burning ban due to potential hazardous fire conditions or when the Minnesota Pollution Control Agency has declared an Air Quality Alert.

**Subd. 9. Running Fires.** Running fires are not permitted within the City except by special open burning permit or exceptions as defined in Subdivision 10 below.

**Subd. 10. Exceptions.** Open burning of the types, and subject to the conditions as hereinafter stated shall be exempt from the prohibitions of this section of the code. Fires managed under supervision for which a burning permit has been obtained from the Fire Chief or his designee but limited to the following:

- A. Fires purposely set for the instruction and training of public and industrial fire fighting personnel.
- B. Fires set for the elimination of a fire hazard which cannot be abated by any other practical means.
- C. Fires purposely set for forest and game management purposes.
- D. The burning of trees, brush, grass, and other vegetative matter in the clearing of land, the maintenance of street, road, and highway right-of-way, and in accepted agricultural land management practices.

**Subd. 11. Liabilities.** Permits to conduct fires under these provisions do not excuse a person from the consequences, damages, or injuries which may result therefrom, nor exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulations.

( Sections 10.27 through 10.28, inclusive, reserved for future expansion.)

## **SEC. 10.29. NOISE CONTROL REGULATIONS**

**Subd. 1. General Prohibition.** It is unlawful for any person to make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or affects the comfort, repose, health, peace, safety or welfare of any persons or precludes their enjoyment of property or affects their property value.

**Subd. 2. Unlawful Acts.** The following acts set forth in the following subdivisions are declared to be loud, disturbing, and unnecessary noises in violation of this Ordinance, but this enumeration is not exclusive.

- A. **Horns, Signaling Devices, etc.** The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning.
- B. **Exhaust.** Discharging of exhaust, or permitting the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, snowmobile or recreational vehicle, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all state

laws and regulations.

- C. Defective Vehicles or Loads.** Using a vehicle so out of repair or so loaded as to create loud or unnecessary grating, grinding, rattling or other noise.
- D. Loading, Unloading and Packing.** Creating loud and excessive noise in loading, unloading or unpacking any vehicle.
- E. Radios, Tape and Disc Players, Bluetooth Speakers.** To use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, wireless or Bluetooth speakers or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace, quiet and comfort of any person nearby. Operation of any such set, instrument, between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

The only exceptions are allowable uses as allowed by special permit or conditional uses as may be approved by the City Council.

- F. Noisy Parties and Gatherings.** No person will, between the hours of 10:00 p.m. and 7:00 a.m. congregate at, or participate in any party or gathering of two or more people from which noise emanates or a sufficient volume so as to disturb the peace, quiet or repose of another person. No person will knowingly remain at such a noisy party or gathering.
  - 1. Evidence.** Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring, or in the case of apartment buildings, in the adjacent hallway or apartment, will be prima facie evidence of a violation of this section.
  - 2. Duty to Disperse.** When a police officer determines that a party or gathering is in violation of this section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person will knowingly remain at such a party or gathering.
  - 3. Exceptions.** The following are exempt from violation of this section:
    - a.** Activities which are duly authorized, sponsored or licensed by the City of Becker, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.

- b. School sponsored special events or functions including but not limited to sporting events or concerts.
- c. Church bells, chimes or carillons.
- d. Persons who have gone to a party for the sole purpose of abating the violation.

4. Penalties. Every owner or tenant of the premises where a party or gathering in violation of this section occurs, who is present at such party or gathering, is guilty of a misdemeanor. Any person who refuses to disperse from a party or gathering in violation of this section after being ordered by a police officer to do so, is guilty of a misdemeanor.

**G. Loud Speakers, Amplifiers and the like.** The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public street for the purpose of commercial advertising or attracting the attention of the public to any building, structure, or vehicle without first obtaining, and keeping current, the necessary permits and approvals from the City.

*Source: Ordinance 147 2<sup>nd</sup> Series; Effective Date: March 29, 2010*

**H. Yelling, Shouting, etc.** Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

**I. Animals, Birds, etc.** The keeping of any animal or bird which by causing frequent or long continued noise will disturb the comfort or repose of any persons in the vicinity.

**J. Whistles or Sirens.** The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles.

**K. Sound Trucks for Advertising Purposes.** The use of sound trucks or any other vehicle equipped with sound amplifying devices for the purposes of advertising any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization without first obtaining, and keeping current, the necessary permits and approvals from the City.

*Source: Ordinance 147 2<sup>nd</sup> Series; Effective Date: March 29, 2010*

**L. Schools, Churches and the Like.** The creation of any excessive noise on any street or private property which unreasonably interferes with any school, institution of learning, church, or the like while the same is in use.

**M. Light Construction Activities.** Engaging in or permitting construction activities involving the use of hand held tools including but not limited to tools such as

hammers, saws, wrecking bars or electrically powered tools including but not limited to skill saws, drills or sanders except between the hours of 7:00 a.m. and 9:00 p.m.

**N. Heavy Construction Activities.** Using tools powered by air compressors including but not limited to jackhammers, impact wrenches, or the use of any kind of diesel or gas powered machine for construction activities except between the hours of 7:00 a.m. and 7:00 p.m.

**Subd. 3. Exception for Emergency Work.** Operations and acts performed exclusively for emergency work to preserve the safety, welfare or public health of the citizens of the city or for emergency work necessary to restore public service or to eliminate a public hazard shall be exempt from the provisions of this Section. Persons having performed emergency work under this section shall inform the Police Department at the time of the need to initiate the work. Any person responsible for the emergency work shall take all reasonable actions to minimize the amount of noise pollution or vibration.

**Subd. 4. Exceptions for Approved Work.** Upon timely application made and the necessity therefore being established, the Council may suspend the operation of this Section for a specific purpose at a specific location and for a specific period of time by Council action and by giving public notice of the nature and limits of the suspension. The City Engineer may also authorize an exception for dewatering, mass grading, road construction, and other activities for Council approved projects.

Adopted this 5<sup>th</sup> day of May 2022.

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Mayor Tracy Bertram

Attest:

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Julie Blesi, City Clerk