

## CHAPTER SEVEN

### GENERAL REGULATIONS

701 DOGS , CATS AND WILD ANIMALS

ASubdivision 1. **Definitions.** As used in this ordinance, the terms defined in this section shall have the following meanings ascribed to them:

*Animal* means every non-human species of animal, both domestic and wild.

*Animal Control Officer* means any employee of the City of Glencoe who holds that employment position and job classification within the City of Glencoe. The Animal Control Officer shall be primarily responsible for responding to dog and cat related problems and the enforcement of ordinances and statutes.

*At large* means a dog shall be at large when it is not under restraint as defined in this Ordinance.

*Cat* means a domesticated feline both male or female, intact or neutered.

*Cruelty* means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

*Dangerous Dog* means any dog that has:

- (1) without provocation, inflicted substantial bodily harm on a human being on public or private property; or
- (2) killed a domestic animal without provocation while off the owner=s property; or
- (3) been found to be potentially dangerous, and after the owner has been sent notice that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or other domestic animals.

*Dog* means both male and female and includes any dog of the dog kind.

*Other Animal Kept As a Pet* means an animal other than a dog or cat for which a rabies vaccine is licensed for the species by the United States Department of Agriculture. An animal that is deemed a prohibited wild animal pursuant to Division B of this Ordinance shall not be kept as a pet even though a rabies vaccine is licensed for the animal, and such an animal shall not be included in the definition of AOther Animal Kept as a Pet.@

*Owner* means any person, firm, corporation, organization or department possessing, keeping, harboring or maintaining a dog or cat within the City. A dog or cat shall be deemed to be harbored if it is fed or sheltered for three days or more.

*Potentially dangerous dog* means any dog that:

when unprovoked, inflicts bites on a human or domestic animal on public or private property; or

when unprovoked, chases or approaches a person including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner=s property, in an apparent attitude of attack; or

has a known propensity, tendency, or disposition to attack without provocation, causing injury or otherwise threatening the safety of humans or other domestic animals.

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

L. *Rabid Animal* means an animal showing signs associated with rabies that are observed and reported by a veterinarian, or an animal diagnosed as positive for rabies by a recognized laboratory or both. Any skunk, wolf, wolf hybrid, civet cat, raccoon, opossum, bat, or fox that bites a dog or cat shall be deemed to be a rabid animal for the purposes of this Ordinance.

M. *Rabies Control Authority* means a duly authorized person responsible for the enforcement of this Ordinance as directed by the City Council.

N. *Rabies Suspect* means any animal which is considered as a potentially rabid animal under the guidelines of the U.S. Centers for Disease Control, and which has bitten any person and caused an abrasion of the skin in such person or has otherwise exposed that person to its saliva through an open wound or mucous membrane.

O. *Under Restraint*: means a dog is under restraint if:

(1) The dog is within a secure vehicle;

(2) The dog is within a secure fence or building within the owner=s property limits;

(3) The dog is secured by means of a chain or metallic cable to a fixed object thereby confining the dog to a specified area;

(4) The dog is controlled by a leash, provided that when persons or other animals

are within twenty (20) feet of the dog, the leash is shortened to six feet; or

- (5) The dog:
- (a) Is within the owner=s property limits, or is involved in a scheduled dog show or obedience demonstration or trial, or is legally involved in hunting or retrieving game animals; and
  - (b) Is controlled by a competent person and is immediately obedient to that person=s command.

P. *Unreasonably Disturb the Peace and Quiet* includes, but is not limited to, the creation of any noise by any animal which can be heard by any person, including animal control officers, environmental health officers, or license peace officers, from a location outside of the building or premises where the animal is being kept and which animal noise occurs either: (1) repeatedly over at least a seven minute period of time or (2) intermittent barking that continues for more than one hour and is plainly audible from a distance of 100 feet or more from the premises where the dog is kept.

Q. *Vaccination Against Rabies* means the inoculation of a dog, cat, farm animal, or other animal kept as a pet with a rabies vaccine licensed for that species by the United States Department of Agriculture and administered in accordance with the recommendation listed in the current year=s Compendium of Animal Rabies Control. The vaccination must be performed by or under the supervision of a veterinarian.

R. *Wild Animal* is every non-human species of the animal kingdom, including those born or raised in captivity except the following:

- (1) Domestic dogs (excluding hi-breds with wolves, coyotes or jackels)
- (2) Domestic cats (excluding hi-breds with ocelots or margays) properly vaccinated against rabies pursuant to law;
- (3) Farm animals, including bees, Vietnamese pot-bellied pigs, and pigeons, provided that no more than one Vietnamese pot-bellied pig and no more than five pigeons can be kept on any one lot or premises;
- (4) Rodents, including hamsters, mice, gerbils, white rats, guinea pigs, hedgehogs, capable of being maintained continuously in cages;
- (5) Rabbits;
- (6) Captive-bred species of common cage birds;
- (7) Small non-poisonous snakes;
- (8) Chinchillas, non-poisonous lizards, and other similar small species capable to being maintain continuously in cages;
- (9) Fish, unless prohibited by state or federal law.
- (10) Neutered male or spayed female domestic ferrets.

## **Division A**

### **Subdivision 2. General Regulations.**

- (A) Restraint. A custodian of any dog within the City shall keep the dog under restraint at all times.
- (B) Disposal of Feces and Possession of Material to Remove Feces. A custodian of any dog within the City shall clean from any sidewalks, street, park, school, public place, or private property of another any feces of the animal and shall dispose of such feces in a sanitary manner. A custodian of an animal shall keep in his or her possession at all times feces removal materials such as a plastic bag, paper towels, etc. to properly dispose of such feces in a sanitary manner. Violation of this provision shall be a petty misdemeanor.
- (C) Tag Required. All dogs and cats shall wear a collar and have an identification tag firmly affixed thereto indicating the dog=s owner by name, address and phone number. It is unlawful for the owner of any dog or cat to fail to have the identification tag firmly attached to a collar worn at all times by the dog or cat.
- (D) License Issuance. All dog and cat licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in this state, showing rabies immunization of the animal for at least the term of the license. All animal licenses shall expire on January 31. Application for license renewal, accompanied by a veterinarian's certificate, shall be made at least 30 days prior to expiration of the license.

License Fees. All fees for licensing of a dog and cat including penalties for late application, may be fixed and determined by the Council, adopted by ordinance, and uniformly enforced. The fees may from time to time be amended by the Council by ordinance. The fee for licensing a dog or cat is \$5.00 per animal per year. Failure to obtain or renew a license within the time requirements for a dog or a cat shall be assessed the fee of \$5.00 per animal along with a late fee of \$10.00 per animal. A copy of the ordinance setting forth currently effective fees shall be kept on file in the office of the City Administrator.

Subdivision 3. **Running at Large Prohibited**. It is unlawful for the owner of any dog to permit such dog to run at large. Any dog shall be deemed to be running at large with the permission of the owner unless it is on a durable leash secured to an object which it cannot move and on the premises of the owner, or on a leash and under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building, or enclosure.

Subdivision 4. **Limitation on Number of Dogs and Cats: Kennel License**

- (A) Limitation on Number of Dogs and Cats. No person shall keep in any one household unit, lot or premise or portion thereof more than two dogs and/or two cats over the age of six months not to exceed a total of four, unless a person has a valid kennel

license from the City. Any dogs and cats (puppies and kittens) less than six months of age must be sired or born by one of the dogs or cats owned by the property owner.

- (B) Kennel License Required. No person may operate a kennel as defined herein in the City without first obtaining a kennel license under this Section.
- (C) Kennel License Application Fee. Application for a kennel license shall be made to the Glencoe City Administrator and shall be accompanied by the license fee as set forth in a resolution of the City Council and made available to the general public.
- (D) Consideration of License Application. The Glencoe City Administrator shall initially review the kennel license application for compliance with this subdivision and then refer the application to the Planning Division for consideration of all zoning requirements. If all licensing and zoning requirements are satisfied, the City Administrator may issue the kennel license to the applicant.
- (E) Appeal to the City Council. If the application for a kennel license is denied by the Glencoe City Administrator, the applicant may appeal the decision to the City Council within ten days of notification of the denial. The City Council may impose conditions upon the granting of any kennel license.
- (F) Revocation. Kennel licenses may be revoked by the City Council for any violation of any condition placed on the license or for any violation of law or regulation after notice and hearing is provided to the licensee.
- (G) Sanitation. Kennels shall be maintained in a clean and healthful condition at all times.

**Subdivision 5. Barking Dogs.**

It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual provided that such noise lasts for a period of more than seven minutes continuously or intermittent barking that continues for more than one hour and is plainly audible from a distance of 100 feet or more from the premises where the dog is kept. It shall not be a violation of this section if the dog was barking, crying, or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located.

Penalty. A first time violation of this section shall be deemed a petty misdemeanor.

Seizure of Barking Dog Noise Abatement. Any police officer or animal control officer may enter onto private property and seize any barking dog, provided that the following conditions exist:

1. There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking.
2. The officer reasonably believes that the barking meets the criteria set forth in Subdivision 6.A.
3. The officer can demonstrate that there has been at least one previous complaint of a dog barking at this address on a prior date.
4. The officer has made reasonable attempts to contact the owner of the dog(s) or the owner of the property and those attempts have either failed or have been ignored.
5. The seizure will not involve forced entry into a private residence. Use of a passkey obtained from a property manager, landlord, innkeeper or other person authorized to have such a key shall not be considered as a forced entry.
6. No other less intrusive means to stop the barking is available; and
7. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

Disposition of Seized Dogs. Any dog seized under the provisions of Subdivision 6.C. shall be taken to the animal pound and kept there to be reclaimed by the owner. The owner shall pay an impound fee and all fees required under Division A. Any dog or cat seized which is unclaimed may be disposed of according to the provisions of Subdivision 15.

**Subdivision 6. Interfering with Animal Control Officer.** No person shall in any manner molest, hinder or interfere with the animal control officer, his agents, any police officer, or any other individual employed directly or by contract with the city to capture dogs or cats and convey them to the animal pound while such person is engaged in such occupation.

**Subdivision 7. Abandonment of Animals.** No person shall abandon any animal within the City of Glencoe.

**Subdivision 8. Adoption of Fees.** All fees for the impounding and maintenance of dogs or cats, may be fixed and determined by the Council, adopted by resolution and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

**Subdivision 9. State Cruelty Provisions Incorporated.** The provisions of Minnesota Statutes Section 343.37 (APrevention of Cruelty to Animals@) and Minnesota Statutes Section 346.57 (ADog and Cats in Motor Vehicles@) as those provisions apply to dogs are hereby incorporated herein by reference and adopted as part of this Section.

Subdivision 10. **Regulations Regarding Cruelty to Dogs.**

- (A) Minimum Requirements. A custodian of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in Minnesota Statutes Section 343.40 and this Section of this Ordinance as a minimum.
- (B) Sanitation Requirements. No person shall permit feces, urine or food scraps to remain in a dog enclosure for a period that is longer than what is reasonable and consistent with proper health and sanitation, or odor prevention.

Subdivision 11. **Owner Obligation for Proper Care.** No owner shall fail to provide any dog or cat with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and humane care and treatment. No person shall beat, treat cruelly, torment or otherwise abuse any dog or cat or cause or permit any dog or cat fight.

Subdivision 12. **Animal Pound.** A City animal pound is established which shall be at such location either within or outside the City as the City Council, by resolution, shall designate. The animal control officer shall attend to the maintenance of such pound and when requested shall file a report with the City Council relating to the operation of such pound. The pound shall be maintained in a clean and orderly manner.

Subdivision 13. **Impoundment.** Any dog or cat found in the City without a identification tag, or any dog running at large, or any dog or cat otherwise in violation of this Division, shall be placed in the Animal Pound, and an accurate record of the time of such placement shall be kept on each dog and cat. Every dog and cat so placed in the Animal Pound shall be held for redemption by the owner for at least five business days. Impoundment records shall be preserved for at least six months and shall show (1) the description of the dog or cat by specie, breed, sex, approximate age, and other distinguishable traits; (2) the location at which the dog or cat was seized; (3) the date of seizure; (4) the name and address of the person from whom any dog or cat three months of age or over was received; and, (5) the name and address of the person to whom any dog or cat three months of age or over was transferred. If unclaimed, such dog or cat shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the dog or cat, or a statement by the dog ' s or cat ' s owner after seizure specifies that the dog or cat should not be used for research, such dog or cat shall not be made.

- (A) If the owner of a licensed dog or cat redeems said animal within five business days, the owner shall pay a release fee to the City prior to release. Said fee is \$15.00 per animal per occasion. In addition to release fee shall be applicable animal boarding fee payable to the City prior to release.
- (B) If the dog or cat is unlicensed, said owner shall pay a fee in the amount of \$75.00, the license fee (see Subdivision 2 (D) and the release fee) and the applicable animal boarding fee.

Subdivision 14. **Notice of Impounding.** Upon the impounding of any dog or cat, the owner shall be notified, or if the owner of the dog or cat is unknown, written notice shall be posted for five (5) days at the Police Station and the Municipal Office Building, which notice shall be in substantially the following form:

NOTICE OF IMPOUNDING DOG OR CAT

Date:

To Whom It May Concern:

I have this day taken up and impounded in the Animal Pound of the City of Glencoe a dog/cat described as follows:

Sex  
Color  
Breed  
Approximate Age  
Name of Owner

NOTICE IS HEREBY GIVEN that unless said dog or cat is claimed and redeemed on or before \_\_\_\_\_m. on the \_\_\_\_\_ day of \_\_\_\_\_, said dog or cat will be disposed of

\_\_\_\_\_  
(Pound Master)

\_\_\_\_\_  
(Police Officer)

Subdivision 15. **Dangerous Dogs.** No person may own, possess, keep, harbor, maintain or otherwise have a dangerous dog in the City unless the dog is registered as provided in this subdivision.

- (A) Notice of Potentially Dangerous or Dangerous Dogs. If after an investigation conducted by the animal control officer or a Police Officer, it is determined that a dog is potentially dangerous or dangerous according to the criteria described in Subdivision 1, the animal control officer or Glencoe Police Department will serve a notice of intent to declare the dog potentially dangerous or dangerous dog on the owner of the dog in question. This notice shall inform the owner of this designation, the basis for the determination, the procedures for contesting the designation as described in Subdivision B below, and the result of the failure to contest the designation as described in Subdivision J below.
- (B) Contesting Declaration of Dangerous or Potentially Dangerous Dogs. If the owner of a dog has received a notice of intent to declare a dog as a potentially dangerous or dangerous dog, the owner may request that a hearing be conducted to determine

whether or not such a designation is justified. This request must be made in writing and delivered to the animal control officer or Glencoe Police Department within fourteen (14) days of receipt of the notice of intent to declare a dog as potentially dangerous or dangerous.

- (C) Initial Review. Upon receipt of such request, the animal control officer or Glencoe Police Department will forward the request along with all necessary supporting documentation to the City Attorney. The City Attorney will make an initial review of the evidence supporting the notice designation to convene a hearing of the Animal Control Review Panel. If there is insufficient evidence supporting the designation, the City Attorney shall withdraw the designation and none of the requirements of this ordinance applying to a dangerous or potentially dangerous dog shall apply to the dog in question. If there is sufficient evidence that the Review Panel could uphold the designation, the City Attorney will cause this notice to be brought to the attention of the Review Panel that will conduct the hearing.
- (D) Hearing Procedure. This Review Panel will consist of two council members as appointed by the Mayor, and an elector who resides within the City. The Panel will schedule a hearing and may call witnesses and review documents as needed to make a determination of the issue. Owners shall have the right to present evidence on their behalf and to cross-examine any witnesses. A simple majority of the members of the panel is necessary for finding that the dog is either dangerous or potentially dangerous. The burden of proof is on the animal control officer or Glencoe Police Department. A finding supporting a designation of dangerous or potentially dangerous dog must be proven by preponderance of the evidence. The decision of the Panel shall be in writing and shall indicate the reasons for the findings. A copy of the findings shall be provided to the animal control officer, Glencoe Police Department, and the dog owner.
- (E) Effect of Findings that Dog is Dangerous. If the Panel finds there is sufficient basis to declare a dog as potentially dangerous or dangerous, that finding will serve as notice to the owner that the dog is in fact a potentially dangerous or dangerous dog. Within fourteen (14) days after the owner has received notice that the dog is dangerous, the owner must cause the dog to be humanely destroyed or the owner must present sufficient evidence that (1) a proper enclosure exists for the dangerous dog and a posting on the premise with a clearly visible warning sign including a warning symbol to inform children that there is a dangerous dog on the property, (2) a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$50,000.00 payable to any person injured by the dangerous dog or a policy of liability insurance issued by an insurance company authorized to conduct business in the state in the amount of at least \$50,000.00 insuring the owner for any personal injuries inflicted by the dangerous dog, (3) the owner has paid an annual fee of not more than \$500.00 in addition to any regular dog licensing fees to obtain a certificate of registration for a dangerous dog under this section, and (4) the owner has had a microchip

identification implanted in the dangerous dog as required pursuant to Minnesota Statute 347.515.

- (F) Dangerous Dog Designation Review. Beginning six months after a dog is declared a dangerous dog, an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the dog=s behavior has changed due to the dog=s age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the dog=s behavior has changed, the authority may rescind the dangerous dog designation.
  
- (G) Dangerous Dog Requirements.
  - (1) An owner of a dangerous dog shall keep the dog while on the owner=s property in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
  - (2) An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.
  - (3) An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new jurisdiction within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog=s death and disposition or the complete name, address and telephone number of the person to whom the dog has been transferred.
  - (4) An animal control authority may require a dangerous dog to be sterilized at the owner=s expense. If the owner does not have the animal sterilized, the animal control authority may have the animal sterilized at the owner=s expense.
  - (5) A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that a person owns a dangerous dog that will reside at the property.
  - (6) A person who sells a dangerous dog must notify the purchaser that the animal control authority has identified the dog as dangerous. The seller must also notify the animal control authority in writing of the sale and provide the animal control authority with the new owner=s name, address and telephone

number.

- (H) Appeal. If the owner of the dog disputes the decision of the Review Panel, the owner shall have the right to appeal the decision to the Glencoe City Council. The appeal must be filed with the City Clerk within fourteen (14) days of the panel's ruling. If the owner of the dog disputes the findings of the City Council, the owner may appeal to the Minnesota Court of Appeals as provided by state law.
- (I) Mayor to appoint Veterinarian and Substitute Panel Members. The Mayor of the City of Glencoe may appoint a veterinarian to serve on the hearing panel as a voluntary basis in lieu of the elector. Such appointment shall continue its effect until the appointee resigns or is replaced by the Mayor. In the event the veterinarian is temporarily unavailable or has a personal interest in the outcome of the proceeding, the Mayor may appointment another veterinarian to replace the initial appointee on the Panel. In addition, in the event either of the city council members are temporarily unavailable or have a personal interest in the outcome of the proceeding, the Mayor may appoint other members of the city council or city staff to sit in their place.
- (J) Failure to Contest Notice of Intent to Declare. If the owner of a dog receives a notice from the animal control officer or Glencoe Police Department of the intent to declare the dog as potentially dangerous or dangerous, and the owner fails to contest that notice within fourteen (14) days, the owner shall be considered as having forfeited the right to the hearing described in Subdivision D and as having consented to the designation of the dog as potentially dangerous or dangerous by default. The animal control officer or Glencoe Police Department will then issue a declaration of dangerous or potentially dangerous dog to the owner. Within fourteen (14) days after the owner has received notice that the dog is dangerous, the owner must cause the dog to be humanely destroyed or (1) a proper enclosure exists for the dangerous dog and a posting on the premise with a clearly visible warning sign including a warning symbol to inform children that there is a dangerous dog on the property, (2) a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$50,000.00 payable to any person injured by the dangerous dog or a policy of liability insurance issued by an insurance company authorized to conduct business in the state in the amount of at least \$50,000.00 insuring the owner for any personal injuries inflicted by the dangerous dog, (3) the owner has paid an annual fee of not more than \$500.00 in addition to any regular dog licensing fees to obtain a certificate of registration for a dangerous dog under this section, and (4) the owner has had a microchip identification implanted in the dangerous dog as required pursuant to Minnesota Statute 347.515.
- (K) Seizure of Dangerous Dogs and Violations. The animal control officer shall or any police officer may immediately seize any dangerous dog if within fourteen (14) days after the owner has received notice that the dog is dangerous:

1. The owner does not validly register the dog under Minn. Stat. 347.51; the owner does not secure the proper liability or surety coverage; the dog is not maintained in a proper enclosure or if the dog is outside the proper enclosure it is not under physical restraint of a responsible person.
2. An owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating , confining, and destroying the dog.
3. Reclaimed. A dangerous dog seized under this section may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the appropriate animal control authority that the requirements of sections 347.51 and 347.52 will be met. A dog not reclaimed under this subdivision within seven days may be disposed of as provided under section 35.71, subdivision 3, and the owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.
4. Subsequent offenses; seizure. If a person has been convicted of a misdemeanor for violating a provision of section 347.51 or 347.52, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal. If the person is not convicted of the crime for which the dog was seized, the owner may reclaim the dog upon payment to the animal control authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under section 35.71, subdivision 3, and the owner is liable to the animal control authority for the costs incurred in confining, impounding, and disposing of the dog.

(L) Exemptions. Dogs may not be declared dangerous if the threat, injury or damage was sustained by a person:

Who was at the time of injury committing or attempting to commit a willful trespass or other tort or crime upon the premises occupied by the owner of the dog; or

Who was provoking, tormenting, teasing, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, teased, abused, or assaulted the dog;

Who was committing or attempting to commit a crime.

- (M) **Law Enforcement Exemption.** The provisions of this section do not apply to trained dogs used by law enforcement personnel officials for police work.

Subdivision 16. **Enforcement.** The animal control officer or police officer may enter upon private land where there is reasonable cause to believe Division A is being violated. Any person who brings a dog into the City is subject to Division A.

Subdivision 17. **Summary Destruction.** Notwithstanding the provisions set forth in this ordinance establishing the procedure to declare a dog dangerous, whenever the animal control officer or a police officer has reasonable cause to believe that a particular dog or cat presents a clear and immediate danger to residents of the City because it is inflicted with rabies or because of a clearly demonstrated vicious nature (the dog has initiated substantial or great bodily harm on a human being on public or private property without provocation), said officer, may summarily destroy said dog or cat after the dog or cat owner has had the opportunity for a hearing before an impartial decision maker.

Subdivision 18. **Penalty.** Unless otherwise specifically noted herein, a violation of Division A of the City Ordinance shall be a misdemeanor under Minnesota law.

Subdivision 19. **Severability.** If any action, subsection, sentence, clause, or phrase of this Subdivision is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division, subdivision, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

## **Division B**

Subdivision 20. **Rabies Control Vaccination Requirements.**

- (A) Vaccination Requirements for Dogs, Cats and Other Animals Kept as Pets. Every dog, cat, or other animal kept as a pet shall be vaccinated against rabies.
- (B) Timing of Vaccination. Dogs, cats, and other animals kept as pets that are too young to be vaccinated against rabies as indicated by the Compendium shall be vaccinated against rabies within thirty (30) days after they reach the minimum age for vaccination as allowed by the Compendium.
- (C) Re-vaccination. A vaccinated dog, cat or other animal kept as a pet shall be re-vaccinated at intervals not to exceed the effective duration of the vaccination as listed in the Compendium.
- (D) Newly Acquired or Imported Animals. Unvaccinated dogs, cats or other animals kept as pets that are acquired or moved into the City shall be vaccinated within thirty (30) days of purchase or arrival, unless the animal is under the minimum age as specified in paragraph (b) of this subdivision.

- (E) Administration of Vaccine by Veterinarian Required. Because of techniques and tolerances, species limitations, and public health implications, animal rabies vaccines shall be administered only by or under the supervision of a veterinarian.
- (F) Unvaccinated Animals. Any animal of a species for which no rabies vaccination is licensed for that species by the United States Department of Agriculture shall be considered unvaccinated for rabies, regardless of that animal's vaccination history.

**Subdivision 21. Disposition of Rabies Suspect.**

- (A) Unvaccinated Dogs and Cats and Ferrets that Are Rabies Suspects. Any dog, cat, or ferret that is a rabies suspect and is not vaccinated in accordance with Subdivision 22 of this ordinance shall be seized, impounded, and quarantined under the supervision of a veterinarian or in an animal-tight enclosure approved by the Rabies Control Authority, for a period of not less than ten (10) days following the exposure. After expiration of the quarantine period, an examination by the Rabies Control Authority or by a veterinarian shall be conducted and if, after the examination, the animal has no clinical signs of rabies, it may be released to the owner after payment of impoundment fees, or in the case of a stray, it shall be humanely euthanized or placed in the custody of a suitable person for adoption and care.
- (B) Vaccinated Dogs and Cats and Ferrets that Are Rabies Suspects. Any dog, cat, or ferret that is a rabies suspect and is vaccinated in accordance with Subdivision 22 of this Ordinance shall be quarantined by the owner or other responsible person as required by the Rabies Control Authority for a period of ten (10) days. If the owner or the other responsible person is not confining the animal during the ten (10) day period, the Rabies Control Authority may confiscate the animal for proper confinement. After expiration of the quarantine period, an examination by the Rabies Control Authority or by a veterinarian shall be conducted and if, after the examination, the animal has no clinical signs of rabies, it may be released from quarantine after payment of impoundment fees.
- (C) Other Animals that Are Rabies Suspects. Any animal, other than a dog or cat or ferret that is a rabies suspect may be seized and may, after notice to its owner if known, and a hearing conducted by a Hearing Examiner, be humanely euthanized and submitted to the Veterinary Diagnostic Laboratory at the University of Minnesota for examination for rabies. An owner may waive his or her right to a hearing under this subdivision. If a hearing is conducted, a Hearing Examiner may consider evidence regarding the species of the animal, the circumstances of the bite, the epidemiology of rabies in the area, and the period of virus shedding for the species, if known. Prior vaccination of an animal does not preclude the necessity for euthanasia and testing if the period of virus shedding is unknown for that species.
- (D) Payment of Fees. The owner shall be responsible for the payment of all impound, disposal, and boarding fees established pursuant to this Ordinance.

- (E) Release Requirements. Animals quarantined pursuant to this Section shall not be released until a written report is received by the Animal Control Officer and the Minnesota Board of Animal Health from a veterinarian stating the veterinarian has inspected the animal and no signs of rabies were observed.

**Subdivision 22. Disposition of Animals Bitten or Exposed by a Rabid Animal.**

- (A) Unvaccinated Dogs and Cats Bitten by a Rabid Animal. Any dog or cat that is known to have been bitten by a rabid animal and that has not been vaccinated in accordance with Subdivision 22 of this Ordinance shall be humanely euthanized with the owner=s consent. If the owner is unwilling to consent to euthanizing the bitten dog or cat, the bitten dog or cat shall be quarantined in an animal-right enclosure constructed so that the animal cannot escape and to prevent the animal from biting or coming into contact with persons or other animals. The quarantine shall take place under veterinary supervision for a minimum of six (6) months. Before release of the dog or cat to its owner, it shall be vaccinated for rabies one month prior to its release and the owner must pay the impoundment fees. If the owner does not comply with the requirements of the quarantine, the bitten dog or cat may be humanely euthanized after notice to the owner and a hearing conducted by a Hearing Examiner. An owner may waive his right to a hearing under this subsection.
- (B) Vaccinated Dogs or Cats Bitten by a Rabid Animal. A dog or cat that is known to have been bitten by a rabid animal and that has been vaccinated in accordance with Subdivision 22 of this Ordinance shall be immediately revaccinated and kept under the owner=s control and observed for forty-five (45) days.
- (C) Other Animals Bitten by a Rabid Animal.
1. Animals currently vaccinated with a vaccine approved by the U.S. Department of Agriculture for that species that have been exposed by a rabid animal shall be immediately revaccinated and placed for at least 90 days in an animal-tight enclosure constructed so that the animal cannot escape and to prevent the animal from biting or coming into contact with persons or other animals.
  2. Any unvaccinated animal, other than a dog or cat, that has been determined by a veterinarian to be bitten or otherwise exposed by a rabid animal shall be humanely euthanized or quarantined in an animal-tight enclosure constructed so that the animal cannot escape and to prevent the animal from biting or coming into contact with persons or other animals. The quarantine shall take place under veterinary supervision for a minimum of six months. If the owner does not comply with the requirements of the quarantine, the animal may be humanely euthanized after notice to the owner and a hearing conducted by the Hearing Examiner. An owner may waive his or her right to a hearing under this subsection.

- (D) Reports to State Board. It shall be the duty of the Rabies Control Authority to report to the Minnesota Board of Animal Health any bite to an animal by a rabid animal.
- (E) Release Requirements. Animals quarantined pursuant to this Subdivision shall not be released until a written report is received by the Animal Control Officer and the Minnesota Board of Animal Health from a veterinarian stating the veterinarian has inspected the animal and no signs of rabies were observed.

Subdivision 23. **Impoundment of Unvaccinated Animals.** Impoundment of dogs, cats or other animals kept as pets found to be in violation of this Division shall be in accordance with Subdivision 15 of this Ordinance.

Subdivision 24. **Release From Animal Pound.** Dogs or cats shall be released to their owners, as follows:

- (A) If such dog or cat is owned by a residence of the City, payment of the impounding fee, maintenance, and immunization fee.
- (B) If such dog or cat is owned by a person not a resident of the City, after immunization of any such dog or cat for rabies, and payment of the impounding fee and maintenance.

Subdivision 25. **Adoption of Unredeemed Dogs and Cats.** If any dog or cat impounded pursuant to this section is not redeemed by its owner, it may be made available for adoption as a pet by and at the discretion of the animal control officer.

Subdivision 26. **Spaying or Neutering Required.** When a dog or cat not previously sterilized is sold or released for adoption by the animal control officer, the buyer or adopting party must:

- (A) Sign a written agreement to have the dog or cat sterilized. If the dog or cat is less than six (6) months old, the buyer or adopting party shall agree to have the dog or cat sterilized by the age of six (6) months. If the dog or cat is more than six (6) months old, the buyer or adopting party shall agree to have the dog or cat sterilized within thirty (30) days of purchase or adoption; and
- (B) Deposit with the animal pound a fee to help cover the cost of sterilization and administration. The fee shall be set by the City Council upon recommendation by the animal control officer.
- (C) Upon receipt of a signed statement from a veterinarian attesting that the dog or cat has been sterilized, the animal control officer shall remit the deposited fee, less any administrative fee, to the veterinarian.
- (D) No person, having agreed in writing to have a dog or cat sterilized pursuant to this

section, shall intentionally fail or refuse to have such sterilization performed within the time specified in the agreement. Violation of this subsection is a petty misdemeanor punishable by a fine not to exceed Three Hundred and no/100 (\$300.00) Dollars. Further, the animal control officer is authorized to seize any dog or cat which the owner has failed to sterilize in accordance with this section and to resell the dog or cat or destroy the dog or cat accordingly. In such a case, the fee deposited with the animal pound shall be forfeited.

- (E) Upon written application by the buyer or adopting party, the animal control officer may waive the provisions of this section requiring sterilization, upon a showing that the dog or cat is a verifiable purebred breeding dog or cat.
- (F) Nothing in this section shall be construed to authorize the animal control officer to sterilize a dog or cat which has been reclaimed by its owner, or for which the period to reclaim as has not expired.

**Subdivision 27. Immobilization of Dogs and Cats.** For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a dog or cat.

**Subdivision 28. Penalty.** Unless otherwise specifically noted herein, a violation of Division B of the City Ordinance shall be a misdemeanor under Minnesota law.

**Subdivision 29. Severability.** If any action, subsection, sentence, clause, or phrase of this Subdivision is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division, subdivision, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

### **Division C**

**Subdivision 30 Wild Animals.** The purpose of this subdivision is to prohibit the keeping of wild animals as pets within the City in order to protect the health, safety, and welfare of the general public. The City Council finds that wild animals kept as pets in an urban setting present a substantial risk of harm to the general public, can increase the likelihood of disease transmission; and can cause public disturbance and public health nuisances.

**Subdivision 31. The Keeping or Selling of Wild Animals Prohibited.**

- (A) No person shall own, possess, or have custody on his or her premises any wild animal for display, training or exhibition purposes, whether gratuitously or for a fee.
- (B) No personal shall keep or permit to be kept any wild animal as a pet.

- (C) No person shall offer for sale any wild animal unless specifically authorized by federal or state law.

**Subdivision 32. Exceptions, Permits and Licenses.**

- (A) Temporary Events. A traveling circus or show which keeps wild animals for a temporary exhibition may be issued a temporary conditional use permit allowing such animals within the City for a period not to exceed thirty (30) days, provided the person, traveling circus, or show has obtained a state permit or is exempt from such requirement pursuant to Minnesota Statutes Section 97A.401. The city=s temporary conditional use permit shall specify the conditions under which the permit is issued in order to protect the general public and to prevent cruelty or neglect to such animals.
- (B) Veterinary Hospitals or Clinics. Any bona fide veterinary hospital or clinic is exempt from Subdivision 33 of this Ordinance and may hold such wild animals provided protective devices adequate to prevent such animals from escaping or injuring the public are provided.
- (C) Wildlife Rehabilitators. Persons keeping wild animals as part of a bona fide institutional program to return such animals to the wild are exempt from Subdivision 34 of this Ordinance, provided the location of the premises complies with all zoning requirements of the City of Glencoe.

**Subdivision 33. Harboring Animals to Conform to Other Regulations.** No living creature whatsoever shall be harbored, maintained or possessed in any zone within the City of Glencoe, except as authorized by the existing ordinances, including zoning regulations of the City of Glencoe.

**Subdivision 34. Impounding Wild Animals.** The impoundment of wild animals shall be in accordance with Subdivision 15 of this Ordinance.

**Subdivision 35. Cruelty to Wild Animals.**

- (A) No person shall sponsor, promote or train a wild animal to participate in, or contribute to the involvement of a wild animal in any activity or event in which any wild animal is a victim of cruelty as defined herein or is induced or encouraged to perform through the use of chemical, mechanical electrical, or manual devices in a manner that will cause or is likely to cause physical injury or suffering to the animal.
- (B) All equipment used on a performing wild animal shall fit properly and be in good working condition.

**Subdivision 36. Penalty.** Unless otherwise specifically noted herein, a violation of this Division C of the City Ordinance shall be a misdemeanor under Minnesota Law.

Subdivision 37. **Severability.** If any action, subsection, sentence, clause, or phrase of this subdivision is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this subdivision. The City Council hereby declares that it would have adopted the subdivision in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 2: This ordinance shall take force and be in effect from and after its passage and publication, and on January 15, 2004.

**(Source:** Ordinance No. 238 adopted September 18, 1972; Cats include in all applicable cases by Ordinance No. 322 adopted May 20, 1985; Section 701.01, 701.03 and 701.06 amended by Ordinance No. 263 adopted February 23, 1976; Section 701.02 added by Ordinance No. 344 adopted November 3, 1986; Section 701.08 amended by Ordinance No. 346 adopted May 4, 1987; Section 701.09 added by and Section 701.18 amended by Ordinance No. 349 adopted October 19, 1987; Ordinance No. 362 adopted August 7, 1989. Section 703.01(d) amended by Ordinance No. 479 approved October 15, 2001; Section 701.03 amended by Ordinance No. 432 adopted February 3, 1997; Section 701 and 702 amended by Ordinance No. 499 adopted November 3, 2003. Section 701 Subdivision 2 amended by Ordinance No. 527 adopted September 5, 2006; Section 701 Subdivision 2, 4, 13 amended by Ordinance No. 529 adopted September 18, 2006. Section 701 Subd.4 (A) amended by Ordinance No. 556 adopted December 7, 2009))

702 HORSES

702.01 This ordinance is enacted for the purpose of establishing regulations for the keeping, raising and boarding of horses within the City of Glencoe.

702.02 No person, firm or corporation shall maintain or stable horses, colts, ponies or mules upon land lying within the limits of the City of Glencoe without first obtaining a permit therefor as hereinafter set forth.

702.03 Application for the permit shall be made to the City Clerk in writing by the owner of the animal or animals upon blanks or forms furnished by and obtainable from the City Clerk. Each application for permit shall have thereon the correct legal description of the property on which the animal or animals will be kept and the name of the owner of the land; the area of land available for pasture; the total number of horses to be kept by the applicant; and the description of shelter provided for the animal or animals.

702.04 No permit shall be issued by the City Clerk until the application has been approved by the City Council. The following standards are to be met and provided by the applicant before the permit shall be issued:

- a. A pasture of at least one-fourth (1/4) acre.
- b. A sturdy wood or metal fence for the pasture which would keep the animal or animals confined. Barbed wire or electrical fences shall not be permitted.
- c. Shelter which shall keep the animal or animals comfortable and protected from the elements and the shelter shall be so located so as not to create a nuisance.
- d. Pasture which will be of a nature that can be used by the animal for grazing. Pastures closer than 30 feet from any structure used for residential purposes shall not be permitted.
- e. The number of animals per one-fourth (1/4) acre shall be limited to one.
- f. Clean and sanitary premises which will not be a harbor for rodents, flies and insects.

702.05 Upon knowledge disclosing that the applicant has complied with the standards provided by 702.04 above, and approval of the application by the City Council, the City Clerk may issue a permit for the keeping of said horses, colts, ponies or mules; which permit shall expire on the ensuing 15th day of April.

702.06 Permits issued pursuant to this ordinance may be revoked by the City Council if the

Council finds, after investigation and after holding a hearing thereon (written notice of said hearing to be given by U.S. mail to the holder of the permit) that:

- a. The premises upon which the animal is kept are unsightly and a harbor for rodents, flies and insects; or
- b. The winter accumulation of manure is not removed from the premises prior to April 15th of each year; or
- c. Accumulation of manure are not removed at such periods as will insure that no objectionable aroma exists and that the requirements or subdivision 1 above are complied with; or
- d. That the applicant has failed to make a reasonable effort to keep the animal or animals under control and fenced within its pasture; or
- e. The applicant has not met the standards set forth in 702.04 of this Code; or
- f. The animal has been cruelly or inhumanly treated.

702.07 Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not to exceed \$300.00 or by imprisonment of not to exceed ninety (90) days. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

**(Source:** Ordinance No. 258 adopted June 2, 1975; Section 702.03 amended by Ordinance 432 adopted February 3, 1997.)

705 CURFEW FOR MINORS

705.01 DEFINITIONS

2. CURFEW HOURS MEANS:
  3. In the case of persons 13 years of age or younger, on any day of the week, 9:00 P.M. until 6:00 A.M. the following day; and
  4. In the case of persons 15 years of age or younger, on any day of the week, 10:00 P.M. until 6:00 A.M. the following day; and
  5. In case of persons 16 years of age on any day of the week, 11:00 P.M. until 6:00 A.M. the following day; and
  6. In the case of persons 17 years of age, on any day of the week, 12:00 A.M. until 6:00 A.M. the following day
  
- B. EMERGENCY means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
  
- C. ESTABLISHMENT means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
  
- D. GUARDIAN means:
  1. a person who, under court order, is the guardian of the person of a minor; or
  2. a public or private agency with whom a minor has been placed by a court.
  
- E. MINOR means any person under 18 years of age.
  
- F. OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
  
- G. PARENT means a person who is:
  1. a natural parent, adoptive parent, or step-parent of another person; or
  2. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
  
- H. PUBLIC PLACE means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
  
- I. REMAIN means to:
  - a. linger or stay; or

b. fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

- J. **SERIOUS BODILY INJURY** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 705.02 RESTRICTIONS

- (1) It shall be unlawful for any minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (2) It shall be unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours. The term **knowingly** includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.
- (3) It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

#### 705.03 EXCEPTIONS

- (1) The following shall constitute valid exception to the operation of the curfew. That the minor was:
  - (1) accompanied by the minor's parent or guardian;
  - (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (3) in a motor vehicle involved in interstate travel;
  - (4) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (5) involved in an emergency;
  - (6) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (7) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Glencoe, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Glencoe, a civic organization, or another similar entity that takes responsibility for the minor;
  - (8) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

- (9) married or had been married.
- (2) It is a defense to prosecution under Section 2 that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

#### 705.04 ENFORCEMENT

Before taking any enforcement action under this section, a police officer shall ask the apparent offenders age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3 is present.

#### 705.05 PENALTIES

- (1) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.
- (2) Any minor who is convicted of a violation of this code chapter after the case has been referred for prosecution in the trial court under Minn. Stat. 260.125, and any adult person having the care and custody of such minor, is guilty of a petty misdemeanor and shall be punished as provided by this code.

705.06 That the terms and provisions of this code chapter are severable. If any provision is, for any reason, held to be invalid, such decision shall not effect the validity of the remaining portions of this chapter. It is intended that the code chapter be held inapplicable in such cases, if any, where its application would be unconstitutional.

**(Source:** Ordinance No. 108 adopted October 4, 1943; Section 705.01, 705.02 and 705.03 amended by Ordinance No. 255 adopted December 16, 1974; Section 705.01, 705.02, 705.3, 705.4, 705.5 and 705.6 amended by Ordinance No. 461 adopted February 22, 2000.)

Purpose. Any parent or legal guardian of a minor child under the age of eighteen (18) years of age who shall by word or deed or failure to act or by lack of supervision and control over said junior child, encourage, contribute toward, cause or tend to cause said minor child to become a “neglected child,” a “delinquent child,” or a “habitual truant,” a “runaway,” a “juvenile petty offender,” a “juvenile alcohol offender,” or a “juvenile controlled substance offender” as defined by Minnesota Statute 260.015, whether or not a petition for adjudication be sought or sustained in McLeod County juvenile court, shall be guilty of a misdemeanor.

The public purpose of this article is to provide for the protection of juveniles from each other and from other persons, for the enforcement of parental control of and responsible for their children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities pursuant to the city’s power to promote the health, safety and general welfare of its citizens.

#### 706.01 DECLARATION OF FINDINGS POLICY

WHEREAS, City of Glencoe desires to enhance the safety of the community and of its youth; and

WHEREAS, a significant percentage of crime committed during school hours is committed by school age youth who are truant; and

WHEREAS, the Glencoe City Council of McLeod County finds that enhancing the safety of our community and youth requires the efforts of parents, businesses, schools and Glencoe; and

WHEREAS, legitimate reasons for compulsory school age youth to be in public areas during school hours are few,

THEREFORE, the Glencoe City Council of McLeod County finds that it is in the best interest of Glencoe located in McLeod County and the citizens thereof, to establish a truancy ordinance.

#### 706.02 DEFINITIONS

- A. “Assigned School Location” means the location where a student would be assigned, registered or released to attend, during compulsory school time when the class or activity is in session or the student is dealing with school business.
- B. “Authorization” means a permission slip given by a school authority to excuse a student from being in the usual assigned school location with school policy or a note from the parent or guardian giving permission for the student to be absent from class. The permission slip must be in the immediate possession of the student at all times when not at the assigned school location during school hours.
- C. “Compulsory School Age Minor” means a person not less than seven (7) nor

more than seventeen (17) years of age that is not exempted and must be attending a public or regularly established private school during the school year of the district in which the minor resides pursuant to Minnesota Statute §120.22.

D. “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious injury or loss of life.

E. “Establishment” means any privately owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.

F. “Guardian” means:

- (1) a person who, under court order, is the guardian of the person or minor; or
- (2) a public or private agency with whom a minor has been placed by court action.

G. “Minor” means any person un 18 years of age.

H. “Open Campus” means when a compulsory school age minor is allowed by school officials to leave the school campus for lunch purposes.

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

J. “Parent” means a person who is:

- (1) a natural parent, adoptive parent, or step-parent of a minor; or
- (2) another person, at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

K. “Public Place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, the common areas of schools, hospitals, office and commercial buildings, public transit conveyances or establishments.

L. “Remain” means to:

- (1) linger or stay; or
- (2) fail to leave premises when requested to do so by police officer or the owner, operator or other person in control of the premises.

M. “Truancy Hours” means those hours in which a compulsory school age youth should be attending school in the district or jurisdiction in which the student is

enrolled, registered, or required to attend.

### 706.03 PROVISIONS

#### A. Offenses:

(1) A compulsory school age minor commits an offense if he or she remains in any public place, is not in his or her assigned school location, or is on the premises of any establishment in Glencoe during truancy hours.

(2) A parent or guardian or a minor or person over eighteen (18) years of age commits an offense if he or she knowingly permits, aides, encourages or allows a compulsory school age minor to remain in any public place or on the premises of any establishment within Glencoe during truancy hours.

(3) Any person commits an offense if he or she engages in any conduct for the purpose of, or resulting in the influencing of any compulsory school age minor to leave or be absent from the assigned school location of said minor during truancy hours.

#### B. Defenses:

(1) It is a defense to prosecution under Subsection III. A. (1) that the compulsory school age minor was:

- a. accompanied by the minor's parent or guardian;
- b. involved in an emergency
- c. following school policy regarding open campus for lunch or attending off-

campus

school approved classes and activities or any other legitimate school sanctioned off-campus function; or taking care of a personal appointment or business and has on his/her person, legal authorization or permission by the school administration his/her guardian;

or

- d. married or has been married or has disabilities requiring removal from school in accordance with state law.

(2) It is a defense to prosecution under Subsection III. A. (2) that the parent or guardian of a compulsory school age minor has met in cooperation with the proper school authorities within fourteen (14) days of notification in response to each certified letter from the court notifying them that their child has received a truancy citation.

(3) It is a defense to prosecution under Subsection III. A (3) that the owner, operator, or employee or an establishment, or owner of a private residence, promptly notified the police department that a compulsory school age minor was present on their premises during truancy hours and refused to leave.

**C. Enforcement:**

(1) Before taking any enforcement action, an identified police officer shall ask the apparent offender's age and reason for going in the public place or being absent from his/her assigned school location. A citation shall be written after a determination by the police officer that the apparent offender is a compulsory school age minor and has no written authorization on his/her person to be excused from school.

(2) A citation shall be written after determination that the parent, guardian or person over 18 has permitted, aided or encouraged a compulsory school age minor to remain in any public place or on the premises of any establishment within Glencoe during truancy hours.

(3) A citation shall be written after determination that the parent, guardian or person over 18 has engaged in conduct for the purpose of, or resulting in the influencing of any compulsory school age minor to leave or be absent from the assigned school location of said minor during truancy hours.

**D. Penalties:**

Violation of this Ordinance is a petty misdemeanor offense, punishable by a fine not to exceed \$300.00. A defendant who commits an offense as provided in this ordinance is guilty of a separate offense each day or part of a day during which the violation is committed, continued or permitted. For the first offense and the second offense the fine shall not exceed \$50.00 for each offense. A third offense is subject to the maximum fine not to exceed \$300.00

(Source: Ordinance No. 519 adopted March 6, 2006)

708 PROHIBITION OF PUBLIC URINATION AND DEFECATION

708.01 Public Urination and Defecation. No person shall urinate or defecate in the City of Glencoe while outside of a building or structure when the Person is:

1. On or in a public street, alley, sidewalk, boulevard, park or parking lot,
2. In a private parking lot open to public use,
3. Outside of a structure on any private property, and within structures only in lawful connections to the wastewater collection system and sewer without the owner's permission or
4. On private property and performs the prohibited act where others off the property can

observe it.

708.02 Violation of the provisions of Section 708 of the Glencoe Municipal Code shall constitute a misdemeanor offense and is punishable by jail not to exceed 90 days and a fine not to exceed \$1,000.00 or both.

(Source: Ordinance No. 518 March 6<sup>th</sup>, 2006)

709 PROHIBITION OF OPEN CONTAINERS

709.01 Open Containers Restricted. No person shall consume or possess in any unconcealed container any alcoholic beverage on or in any of the following: (1) city park between the hours of 12:00 a.m. and 8:00 a.m. with exception for public celebrations

sanctioned by the Park Board, (2) on the street, (3) on public property, (4) in a private parking lot to which the public has access, or (5) any business not licensed to sell alcoholic beverages, except on premises when and where permission has been specifically granted or licensed by the Council. This section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of the vehicle if it is equipped with a trunk, or kept in some other area of

the

vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment

shall be deemed to be within the area occupied by the driver or passengers.

709.02 Violation of the provisions of Section 709 of the Glencoe Municipal Codes shall constitute a misdemeanor offense and is punishable by jail not to exceed 90 days and a fine not to exceed \$1000.00 or both.

(Source: Ordinance No. 522 March 6<sup>th</sup>, 2006)

710 DANGEROUS INSTRUMENTALITIES

710.01 Definitions

- a. "Fire Arms" shall mean any form of shot gun, rifle, pistol or combination thereof designed to shot a bullet, pellet, slug or projectile by an explosion of gun powder in any form, and whether such instrument be specifically designed or manufactured for such purposes, or designed for some other purpose but put to such a use.
- b. "Cross bows and bows" shall mean any instrumentality designed to fire a missile, dart, projectile, arrow or a similar device by the use of tension upon a string, spring, wire, cable or tether, and shall include hand bows, foot bows, crossbows, gun bows or any other similar device whether or not the same were designed and manufactured for such a purpose or designed for some other purpose but put to such a use.
- c. "Pellet guns and BB guns" shall mean any form of a gun or similar device designed to shoot a pellet, BB, buckshot or other projectile by the use of compressed gas, tension or springs whether such device was designed and manufactured for such purpose or designed for some other purpose but put to such use.
- d. "Swords, knives and similar devices". Any instrument including swords, knives, daggers, hunting knives, spears, cleavers, hatches, stilettos, razor blades, razors and other devices designed for stabbing, cutting, cleaving or chopping whether or not designed or manufactured for that purpose or designed for some other purpose but put to such a use.
- e. "Dangerous instrumentalities" shall be defined as any instrument or device designed to throw, hurl, soot, project or toss any stone, missile, projectile, marble or other object including but not limited to: sling shots, sling bows, spear throws or other devices that are manufactured and designed for that purpose or designed for some other purpose but put to such a use.

710.02 It shall be unlawful for any person with the city limits of the City of Glencoe to discharge, fire or shoot any firearm, BB gun, pellet gun, crossbow or bow. Discharge or use of any of the above said prohibited instruments shall also be prohibited notwithstanding that the discharge or use occurred outside the City limits of the City of Glencoe, if such items are shot into the city, causing any object discharged or used to pass through or into the City whether or not they actually strike or alight there.

710.03 All firearms whatsoever shall be unloaded at all times within the City of Glencoe. In addition to being unloaded all such firearms shall be encased in a gun case, holster, gun box, gun bag or other completely enclosed container. Any

firearm in a holster shall be strapped or fastened to the holster and not available to immediate removal without the loosening or unfastening of a securing strap or clip.

710.04 All bows or cross bows shall be unloaded and unstrung at all times within the City. It shall not be deemed a violation of this ordinance to target shoot hand bows within the City of Glencoe provided such target shooting is under conditions and circumstances as not to endanger any person or property and conducted in a safe and reasonable manner.

710.05 It shall be unlawful for any person to shoot or discharge any pellet gun or BB gun within the City of Glencoe. All pellet guns and BB guns shall be unloaded and uncocked at all times. In the case of pellet guns such guns, shall not contain any compressed gas, gas cylinders, or devices used as a propellant while in the City.

710.06 All swords and knives and other described items of this category shall be used in the City of Glencoe only for a lawful and reasonable purpose for which type were intended. At all other times such items shall be sheathed, stored in a safe place, and not exposed to public view.

710.07 It shall be unlawful to discharge, use or set off in any fashion any dangerous instrumentality within the City of Glencoe, including such use or discharges as causes any projectile to be thrown, hurled or passed into the City whether or not the same lands there. Any dangerous instrumentality to be transported in public, or in any motor vehicle, shall be encased as to prevent its use. Any dangerous instrumentality which is strung or capable of use, not stored or contained in a form of container to prevent its immediate use, shall be considered a violation of this ordinance.

710.08 Any item described in Section 710.01 shall at all times and places be stored in a safe and reasonable manner so as to not be available to children, incompetents or other persons not of other sufficient mental capacity to handle such items.

710.09 This ordinance shall not be construed to authorize or permit the ownership and possession of any otherwise unlawful items including but not limited to: switch blade knives, spring bladed stilettos, zip guns, machine guns or other fully automatic firearms, sawed-off shotguns or other illegal devices prohibited by federal law, state statute or local ordinance.

710.10 Any violation of this ordinance shall constitute a misdemeanor and be punishable accordingly. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(Source: Ordinance No. 360 adopted April 17, 1989.)

715.01 Declaration of Policy. The City council of Glencoe has determined that the health of the Elm trees within the municipal limits is threatened by a fatal disease known as Dutch Elm disease. It has further determined that the loss of Elm trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of this disease and this ordinance is enacted for that purpose.

715.02 Forester.

- a. Position Created. The powers and duties of the City Forester as set forth in this ordinance are hereby conferred upon the Street Superintendent.
- b. Duties of Forester. It is the duty of the Forester to coordinate, under the direction and control of the Council, all activities of the municipality relating to the control and prevention of Dutch Elm Disease. He shall recommend to the Council the details of a program for the control of Dutch Elm disease, and perform the duties incident to such a program adopted by the Council.

715.03 Dutch Elm Disease Program. It is the intention of the Council of Glencoe to conduct a program of plant pest control pursuant to the authority granted by Minnesota Statutes 1961, Section 18.022. This program is directed specifically at the control and elimination of Dutch Elm disease fungus and elm bark beetles and is undertaken at the recommendation of the Commissioner of Agriculture. The City Forester shall act as coordinator between the Commissioner of Agriculture and the Council in the conduct of this program.

715.04 Nuisances Declared.

- a. The following things are public nuisances whenever they may be found within the City of Glencoe.
  - i. Any living or standing Elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ceratocystis Ulmi (Buisman) Moreau or which harbors any of the elm bark beetles Scolytus Multistriatus (Fichh.) or Hylurgopinus Rufipes (Marsh).
  - ii. Any dead Elm tree or part thereof, including logs, branches, stumps, firewood or other Elm material from which the bark has not been removed and burned or sprayed with an effective Elm bark beetle insecticide.
- b. Abatement. It is unlawful for any person to permit any public nuisance as defined in subdivision 1 to remain on any premises owned or controlled by him within the City of Glencoe. Such nuisances may be abated in the manner

prescribed by this ordinance.

715.05 Inspection and Investigation.

- a. Annual Inspection. The Forester shall inspect all premises and places within the City as often as practicable to determine whether any condition described in section 5 of this ordinance exists thereon. He shall investigate all reported incidents of infestation by Dutch Elm fungus or elm bark beetles.
- b. Entry on Private Premises. The Forester or his duty authorized agent may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this ordinance.
- c. Diagnosis. The Forester shall, upon finding conditions indicating Dutch Elm infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in section 8 no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

715.06 Abatement of Dutch Elm Disease Nuisances. In abating the nuisances defined in section 5, the Forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and elm bark beetles. Such abatement procedures shall be carried out in accordance with the current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

715.07 Procedure for Removal of Infected Trees and Wood.

- a. Whenever the Forester finds with reasonable certainty that the infestation defined in Section 5 exists in any trees or wood in any public or private place in the city, he shall proceed as follows:
  - i. If the forester finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he shall make a written report of his finding to the council which shall proceed by (1) abating the nuisance as a public improvement under Minnesota Statutes Ch. 429 or (2) abating the nuisance as provided in Subd. 2 of this Section.
  - ii. If the Forester finds that danger of infestation of other elm trees is imminent, he shall notify the abutting property owner by certified mail that the nuisance will be abated within a specified time, not less than 5 days from the date of mailing of such notice. The forester shall immediately report such action to the council, and after the expiration of the time limited by the notice he may abate the nuisance.

- b. Upon receipt of the Forester's report required by Subd. 1, part A. the Council shall be resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed bases of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.
- c. The Forester shall keep a record of the costs of abatements done under this section and shall report monthly to the City Clerk (or other appropriate officer) all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.
- d. On or before September 1 of each year the Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this ordinance. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes Sec. 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

#### 715.08 Spraying Elm Trees

- a. Whenever the Forester determines that any elm tree or elm wood within the City is infected with Dutch Elm fungus, he may spray all nearby high value elm trees, with an effective elm bark beetle destroying concentrate. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his agents whenever possible.
- b. The notice provisions of section 8 apply to spraying operations conducted under this section.

715.09 Transporting Elm Wood Prohibited. It is unlawful for any person to transport within the City any bark-bearing elm wood without having obtained a permit from the Forester. The Forester shall grant such permits when the purposes of this ordinance will be served thereby.

715.10 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Forester of his agents while they are engaged in the performance of duties imposed by this ordinance.

715.11 Penalty. Any person, firm or corporation who violates Sections 11 or 12 of this ordinance is guilty of a misdemeanor and may be punished by a fine of not to exceed \$100 or imprisonment for 90 days. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(**Source:** Ordinance No. 255 adopted September 2, 1970.)

## 720. EXPLOSIVES

### 720.01 Scope.

- a. This ordinance shall apply to the manufacture, keeping, having, storage, sale, transportation, and use of explosives and blasting agents.
- b. It shall not apply to the following:
  - i. Transportation of explosives or blasting agents when under the jurisdiction of and in compliance with the regulations of the Federal Department of Transportation.
  - ii. Shipment, transportation and handling of military explosives by the Armed Forces of the United States and the State Militia.
  - iii. Transportation and use of explosives or blasting agents in the normal and emergency operation of federal agencies or state or municipal fire and police departments, providing they are acting in their official capacities and in the proper performance of their duties.
  - iv. Sale and use (public display) of pyrotechnics commonly known as fire-works.
- c. This ordinance shall not apply to the following commodities and items;
  - i. Stocks of small arms ammunition; propellant-actuated power cartridges; small arms ammunition primers in quantities of less than 1,000,000, smokeless propellant in quantities of less than 750 pounds.
  - ii. Explosive actuated power devices when in quantities of less than 50 pounds net weight of explosives.
  - iii. Fuse lighters and fuse igniters.

- iv. Safety fuse (safety fuse does not include cordeau detonant fuse), and 3/32 inch cannon fuses or matchlock fuses (slow match).
- v. The sale or transfer of black powder or other commonly used non-smokeless propellant in individual transactions involving quantities of five (5) pounds or less when used for muzzle loaded sports equipment or used in the hand loading of sports equipment.

720.02 Definitions. In this ordinance, the following words are used as defined below:

- a. Blasting agent shall mean any material or mixture consisting of a fuel and oxidizer, intended for blasting not otherwise classified as an explosive and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

NOTE 1: A No. 8 test blasting cap is one containing two grams of a mixture of 80% mercury fulminate and 20% potassium chlorate, or a cap of equivalent strength.

NOTE 2: Nitro-Carbo-Nitrate. This term applies to any blasting agent which has been classified as nitro-carbo-nitrate under the Department of Transportation Regulations, and which is packaged and shipped in compliance with the regulations of the Department of Transportation.

- b. "Explosive-actuated power devices shall mean any tool or special mechanized device which is actuated by explosives, but not to including propellant-actuated power devices. Examples of explosive-actuated power devices are jet tappers and jet perforators."
- c. "Explosive or explosives shall mean any chemical compound, mixture or device, the primary or common purpose of which is to function be explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the DOT (formerly ICC). The term 'Explosives' shall include all material which is classified as Class A, Class B, and Class C . . ."

NOTE 1: Classification of explosives is described by the Department of Transportation, DOT (formerly Interstate Commerce Commission, ICC) as follows:

- i. Class A Explosives. Possessing, detonating or otherwise maximum hazard; such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder, blasting caps, and detonating primers.

- ii. Class B Explosives. Possessing flammable hazard, such as propellant explosives (including some smokeless propellants), photographic flash powders, and some special fireworks.
- iii. Class C Explosives. Includes certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities.
- iv. Forbidden or Not Acceptable Explosives. Shall mean explosives which are forbidden or not acceptable for transportation by common carriers, by rail freight, rail express, highway or water in accordance with the regulations of the DOT (formerly ICC).

NOTE 2: Certain chemicals and certain fuel materials may have explosive characteristics which are not specifically classified by the DOT (formerly ICC) and are not readily classified for coverage in the Code. Authoritative information should be obtained for such unclassified materials and action commensurate with their hazards, location, isolation and safeguards, should be taken.

- d. Highway shall mean any public street, public alley or public road.
- e. Inhabited buildings shall mean a building or structure regularly used in whole or in part as a place of human habitation. The term "inhabited building" shall also mean any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, storage and use of explosives.
- f. Magazine shall mean any building or structure, other than an explosives manufacturing building, approved for the storage of explosives.
- g. Motor vehicle shall mean any self-propelled vehicle, truck, tractor, semi-trailer, or truck-full trailers used for the transportation of freight over public highways.
- h. Propellant-actuated power devices shall mean any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.
- i. Person shall mean any individual, firm, co-partnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee or personal representative thereof.
- j. Public conveyance shall mean any railroad car, street car, ferry, cab, bus, airplane or other vehicle which is carrying passengers for hire.

- k. Railway shall mean any steam, electric, diesel, electric or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives are stored or where explosives manufacturing buildings are situated.
- l. Small arms ammunition shall mean any shotgun, rifle, pistol or revolver cartridge, and cartridge for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, spotting or pyrotechnic projectiles is excluded from this definition.
- m. Small arms ammunition primers shall mean small percussion-sensitive explosive charges, encased in a cup, used to ignite propellant powder.
- n. Smokeless propellants, commonly called smokeless powders in the trade, used in small arms ammunition, cannon, rockets, propellant-actuated power devices, etc.
- o. Special industrial explosive devices shall mean explosive-actuated power devices and propellant-actuated power devices.
- p. Special industrial explosives materials shall mean shaped materials and sheet forms and various other extrusions, pellets and packages of high explosives, which include dynamite, TNT, PETN, RDX, and other similar compounds used for high-energy-rate forming, expanding and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

720.03 Mandatory Permits for Acquisition and Use. It shall be unlawful for any person to acquire, possess, use, sell or handle any explosive as defined in section 2 of this ordinance, except as otherwise provided by section 1, within the City of Glencoe without having a permit in his possession.

- a. Such a permit shall be issued only by the City Clerk, upon approval of the City Council.
- b. Any person desiring a permit as required by this section shall make application therefore in writing to the City Clerk on such forms as the City Council may prescribe.
- c. Before any permit is issued by the Clerk he shall notify the Chief of the Fire Department (Chief of Police) that such permit is desired. Upon receipt of such notification the Chief shall inspect the premises upon which the applicant desires to store, handle and use the explosives set forth in the application and if he is satisfied (1) that no serious fire hazard will be created, and (2) that the applicant plans to store and use the explosives in the manner prescribed by this ordinance, he shall endorse his approval upon said application and return it to the Clerk who shall present the same to the Council.

- d. The Council shall deny the issuance of any such permit to anyone who:
  - i. Has been convicted within the past ten (10) years of a felony or gross misdemeanor involving moral turpitude or anyone who is presently under indictment for any such crime; or
  - ii. Has been within the past ten (10) years convicted of a crime in which the use, possession or sale of narcotics or illicit drugs was an element; or
  - iii. Has been treated within the past ten (10) years for addiction to narcotic or illicit drugs, or has been within such time period admitted to any hospital or institution for treatment of narcotic or illicit drug addiction, or has been within such time period, certified by a licensed medical doctor as being addicted to narcotic or illicit drugs; or
  - iv. Has been within the past ten (10) years, treated for alcohol addiction, admitted to any hospital or institution for treatment of alcohol addiction, or certified by a licensed medical doctor as being addicted to alcohol; or
  - v. Has been within the past ten (10) years, admitted to any hospital or institution because of or for treatment of any mental deficiency, or certified by a licensed medical doctor as being mentally ill or mentally deficient; or
  - vi. Has been within the past ten (10) years, acquitted of any criminal charge by reason of insanity; or
  - vii. Is not twenty-one (21) years of age at the time when application for such permit is made.
- e. If the Council grants the permit the Clerk shall, upon receipt of a fee of twenty-five (\$25.00) dollars, prepare and deliver to said applicant such permit as is requested in said application, provided, that no permit shall be granted for a period exceeding one year.

720.04 Permit Application. The application for a user's permit shall be sworn to by the applicant and shall contain the following information:

- a. Name and address of the applicant;
- b. The applicant's date of birth;
- c. Where applicant intends to permanently store the explosives he intends to use and the storage security measures provided at the storage and use sites;
- d. The applicant's intended use for explosives he purchases pursuant to any permit that may be issued to him; and

- e. All such additional information as may be prescribed by the City Council in determining whether the applicant is qualified pursuant to section 3 of this ordinance to possess such permit.

720.05 Permit Revocation. A permit may be revoked or suspended at any time by order of the City Council for any violation of the provisions of this ordinance or upon the creation or existence of any condition which would be in the opinion of the Chief of the Fire Department (or Chief of Police) create or tend to create a serious fire hazard.

720.06 May not Transfer to Unauthorized Person. No person shall sell, transfer or give away any explosive or blasting agent to anyone who does not possess a valid permit issued pursuant to section 3 of this ordinance.

720.07 Seller's Record. Every person selling or giving away any explosives covered by this ordinance shall keep at all times an accurate record in a bound book, of all such explosives handled by him, indicating a detailed account of:

- a. Date of each transference of explosives:
- b. Amount of each such transference:
- c. Name of and address of each purchaser or transferee;
- d. Manufacture of the explosives being transferred;
- e. The type of and any identification numbers of explosives being transferred;
- f. Explosives owner's or user's permit number;
- g. Intended place of storage of the explosive by the purchaser or transferee;
- h. Intended use site; and
- i. Security measures provided at the storage site and at the use site.

Such record book shall at all reasonable times be open to the inspection of the Chief of the Fire Department (or Chief of Police) and all duly constituted law enforcement officials of the City of Glencoe. In addition on the first day of every month the seller or transferor shall make a report to the Chief of the Fire Department (or Chief of Police) of the transactions which took place that month.

720.08 Storage and Security Requirements. Any person storing, handling, using or in any way disposing of explosives covered by this ordinance shall maintain minimum safety and security features of all permanent and temporary storage facilities in a manner prescribed by the Rules and Regulations of the Minnesota State Fire Marshal governing the storage, handling, use and

transportation of blasting agents and explosives.

720.09 Report of Thefts. Any person who has explosives in his possession and who incurs a loss or theft of all or a portion thereof upon discovery of such loss or theft shall immediately, and in no event longer than twenty-four (24) hours from the time of discovery, inform the office of the local Chief of Police of the loss or theft, the amount missing and the approximate time of the occurrence.

720.10 Bomb Threats. It shall be unlawful for anyone:

- a. As a hoax, to communicate or cause to be communicated the fact that a bomb or any other explosive device has been placed in any building or in any location other than a building.
- b. As a hoax, to threaten to bomb any person, place or building.
- c. To knowingly permit any telephone or other means of communication under his control to be used for any purposes prohibited by this section.
- d. As a hoax, to place or cause to be placed in any location any article, constructed or placed with intent to give the impression that said article possesses explosive capability.

720.11 Penalty. Any person who shall violate any provision of this ordinance shall upon conviction thereof before the Municipal Court of the City of Glencoe, be punished by a fine of not more than three hundred dollars (\$300) or by imprisonment for a period of not more than ninety (90) days or both for each such offense. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(Source: Ordinance 226 adopted October 19, 1970.)

## 722. FIREWORKS

722.01 Definitions:

- A. AFireworks@ - For the purposes of this section, Afireworks@ will have the definition as contained in Minnesota Statute 624.20 Subd. 1 or any superceding statute.

722.02 Permit Required.

- A. No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.
- B. The application for the permit for the manufacturing, storage for commercial purposes and sale of fireworks shall be made to the City Administrator a minimum of thirty (30) days prior to operating.

- C. Permits shall be issued for a period of one calendar year.
- D. Prior to processing the application, a criminal records check must be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire/fireworks-related misdemeanor within the last three (3) years.
- E. Prior to processing the application, the Fire Chief shall determine that the proposed location is code compliant.
- F. The application shall include a letter from the person legally responsible for the property on which the fireworks related activity will occur. Said letter shall grant permission to the applicant for the use of said property.
- G. The annual permit cost shall be \$100.00 and shall not be pro-rated.

722.03 Sales and Storage of Fireworks.

- A. No person shall sell or store fireworks within 50 feet of any fuel dispensing apparatus.
- B. It shall be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks. No Smoking signs shall be conspicuously posted and approved fire extinguishers must be available for use.
- C. In buildings that do not have an automated sprinkling system, retail sales displays of fireworks shall be limited to a gross weight of 200 pounds of fireworks. In buildings that do contain an automated sprinkling system, retail sales displays shall be limited to a gross weight of 400 pounds of fireworks.
- D. The requirements of this ordinance are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.
- E. Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.
- F. No exterior storage, display, sales or transient sales of fireworks are permitted. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or properties used for educational purposes or assemblies.
- G. A list of all consumer fireworks displayed and stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.
- H. Manufacturing, warehouse buildings, or display in excess of the quantities listed in (g) for retail consumer fireworks shall be classified as an (H)

occupancy and protected similarly to explosives and aerosols.

- I. A handout describing fireworks safety and the city ignition device ordinance shall be provided to each consumer purchasing fireworks.

#### 722.04 Use and Possession.

- A. It is unlawful to use, fire or discharge any fireworks along the route of and during any parade or at any place of public assembly or in any commercial/industrial district.
- B. It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.
- C. The discharge of fireworks shall be prohibited inside a building and within fifteen (15) feet of any building.
- D. The Fire Chief may ban fireworks if dry or windy conditions occur.
- E. Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.
- F. Fireworks may not be discharged in such a manner that may create a nuisance nor between the hours of 11:00 P.M. to 7:00 A.M.

#### 722.05 Penalties

- A. Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property owner or permit holder.
- B. Violations of this regulation, city ordinance or state statute may result in revocation of the permit.
- C. Violations of this Fireworks ordinance is a misdemeanor offense punishable by fine up to \$1,000.00 and/or 90 days in jail.

**(Source:** Ordinance No. 489 adopted February 18, 2003; Section 722.03 amended by Ordinance No. 512 on November 15, 2004.)

## 725. REFUSE DISPOSAL

### 725.01 Definitions.

- 1 Garbage, as used in this ordinance, consists of every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay or dealing in, or storage of, meats, fish, fowl, birds, fruits, vegetables, grains or other food stuffs, including the packaging material there from.
- 2 Open burning as used in this ordinance means any fire wherein the products of combination are admitted into the open air and are not directed thereto through a building code approval stack or chimney, or approved incinerator or other device which prevents the escape of sparks or ashes.
- 3 Rubbish is used in this ordinance to mean all discarded items, including paper, cardboard, cloth, clothes, shoes, crockery, glass, metal, plastic, furniture and other discarded items.
- 4 Construction debris as used in this ordinance means soil, earth, sand, clay, gravel, loam, stones, bricks, concrete blocks, plaster, portland cement, cinders, shingles or other items as a result of the demolition of buildings and/or as a by-product of the construction of buildings.
- 5 Waste as used in this ordinance means human or animal waste, feces or manure.
- 6 Yard waste as used in this ordinance means grass clippings, leaves, twigs, branches, cut weeds, tree seeds or cones, and other vegetable material (including compost) generated from yards and gardens, exclusive of food stuffs.
- 7 Recreational fires as used in this ordinance means fires contained in either UL approved outdoor fireplaces or outdoor fireplaces of masonry construction under the specific regulations provided in this ordinance.

725.02 It shall be unlawful for any person in the City of Glencoe to dispose of any refuse item, including all items described in Section 725.01 of this Code in any manner other than as authorized by this code, or to throw or deposit the same on either private or public property, or otherwise to deposit or keep the same where insects and rodents have access to them or feed upon them.

725.03 Refuse shall be disposed of in the following manners:

1. Garbage and rubbish shall be disposed of by placing the same in authorized containers for weekly pickup by the City of Glencoe's franchised garbage hauler, and specifically subject to the City of Glencoe's garbage hauling franchise and rules and regulations that are promulgated thereunder. Garbage and refuse may be also disposed of by the owner transporting the same to an authorized waste disposal site.
  - (a) In all cases the garbage container, including dumpsters, shall be covered to reasonably prevent the escape of odor, as well as to prevent access by scavaging by birds and animals.

2. Construction debris shall be disposed of only in authorized, lawful construction debris disposal sites.
3. Yard waste may be delivered to any authorized yard waste disposal site. Yard waste may be composted upon the property upon which it is generated, but only provided the composite site is kept neat and orderly and does not emit offensive or obnoxious odors. In no case shall brush piles of branches, trees, shrubs or other vegetable material be maintained on any property other than an authorized disposal site.
4. All human waste shall be disposed of only through the Glencoe wastewater treatment system by deposit into the sanitary sewer collection system. Pet waste may be disposed of through the sanitary sewer collection system or may be placed in paper or plastic bags and included within garbage. Pet waste shall be immediately removed from a public or private place. No large animal manure (cows, horses, swine, etc.) shall be permitted to be deposited within the City of Glencoe and the owner of any animal which deposits large animal manure within the City shall be responsible for the immediate removal of the same to dispose of it outside of the City limits in a lawful manner.

725.04 The transport to disposal sites of any refuse items described in Section 725.01 of this code shall be in such a manner as to not permit the same to be dropped, deposited, blown or left upon any street, alley, boulevard, private or public property en route, and all loads shall be secured to prevent the same.

725.05 No open burning shall be permitted whatsoever within the City of Glencoe, except permitted recreational fires or upon the express approval of the City Council, and then only for extraordinary or unusual conditions which shall include: supervised burning of dilapidated buildings by the Fire Department, brush pile burning upon the City's waste disposal site, use of fire to thaw frost ground for access to public utilities. In no case shall any other items as defined in Section 725.01 of this code be disposed of by open burning.

725.06 The following regulations shall apply to recreational fires:

- a. All recreational fires shall be contained within a UL approved or masonry construction outdoor fireplace which is equipped with a spark arrester to prevent airborne sparks. In no case shall the fire chamber exceed a size longer than 3 feet high, 3 feet wide and 3 feet deep.
- b. Recreational fires will be located only within residential zones, and in the case of rental property, the owner of the property must join in the permit application with the tenant.
- c. No outdoor fireplace shall be located within 15 feet of any structure, including dwelling houses, garages, porches,

balconies, decks or storage sheds.

- d. Only charcoal and/or wood (exclusive of contamination of any other substance) shall be used as fuel within an outdoor fireplace.
- e. Outdoor fires shall not be permitted prior to 8:00 o'clock a.m. on any day and shall be extinguished no later than 12:00 midnight, and in all cases fires shall have a person in attendance of a person of at least the age of 18 years at all times when the fire is burning.
- f. No recreational fire shall be maintained which emits significant smoke; and in all cases there shall be readily accessible to the fire a source for a steady stream of water, for example, a garden hose attached to an operating faucet connected to a reliable source of water.
- g. The issuance of a recreational fire permit shall not insulate any property owner from private liability, for negligence or maintaining a nuisance.
- h. No recreational fire shall be commenced unless the owner or owner/tenant of the property has obtained a recreational fire permit from the City of Glencoe. Application shall be made on such form as promulgated by the City Administrator. An annual permit fee of \$15.00 shall be submitted with the application. All permits shall be annual permits and shall expire on December 31<sup>st</sup> of each year regardless of date of issuance. No permit is transferable to a subsequent owner of the property.

725.07 It is specifically unlawful for any person to throw, deposit or cause to be deposited, grass clippings, leaves or other yard waste or debris on or in the gutters and storm drains located within the rights-of-way of the streets, alleys and thoroughfares of the City of Glencoe.

725.08 Any person, firm or corporation violation any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, subject to penalties therefore as may be established from time to time by state law. Each day a violation of this ordinance shall be considered a separate offense.

**(Source:** Ordinance 109 adopted October 16, 1944. Section 725 amended by Ordinance No. 459 adopted on November 1, 1999. Section 725.03 amended by Ordinance 528 adopted September 5,

2006)

726. LEAF DISPOSAL

726.01 Pursuant to the authority of Minnesota Statutes Section 116.082, the City of Glencoe hereby establishes a site for the open burning of leaves to be available to the residents of the City of Glencoe only, located at the existing elm tree disposal site in Section 18, Township 115, Range 27, McLeod County, Minnesota, all according to provisions of this ordinance.

726.02 Leaves may be brought to the site for disposal during the period of September 15 to December 1st of each year. Only leaves shall be brought to the site together with minor twigs and branches, but in no case shall any garbage, refuse or other material whatsoever be deposited or left upon the site. No leaves shall be left upon the site in any container including bags, cans or other devices. All containers whatsoever shall be removed from the site by the party delivering the leaves. Leaves shall be delivered to the site only during established hours of delivery which are initially set from 12 o'clock noon to 8 o'clock P.M. on Tuesdays and thursdays and 8 o'clock A.M. to 6 o'clock P.M. on Saturdays between the dates of permitted disposal. The City Council shall have the power by resolution to vary the times of disposal. The Street Superintendent is directed to post a sign at the entrance to the disposal site notifying the public of the hours and days of permitted disposal.

726.03 The Street Superintendent is directed that at all times of permitted disposal an employee of the City of Glencoe shall be on site to monitor the disposal and enforce the provisions of this ordinance.

726.04 Residents of the City of Glencoe shall be entitled to garbage pick-up of bagged leaves by regular garbage route pick-up, but all such leaves so left for garbage pick-up shall be charged at the regular garbage rates in force at the time of pick-up.

726.05 In no case, shall any person dispose of any leaves within the City of Glencoe, except by one of the following authorized procedures:

- a. Delivery to the burn site established herein and according to the provisions of this ordinance.
- b. Pick-up by regular garbage service of bagged leaves at regular garbage rates.
- c. Delivery of leaves to an authorized waste disposal site.
- d. Delivery of leaves to an authorized compost pile. Residents may maintain small compost piles upon their premises for personal horticultural use, but in no case shall any compost pile violate the existing nuisance, blight or zoning

ordinances.

In no case, shall any open burning of leaves be permitted within the City of Glencoe other than at the established site.

726.06 All leaves delivered to the burn site as established shall be burned only according to the specific conditions of Minnesota Statute 116.082 and such other regulation in furtherance thereof that may be promulgated by the Minnesota Pollution Control Agency, or such further and more restrictive conditions as may be imposed by the City Council of the City of Glencoe by resolution.

726.07 Any violation of this ordinance shall constitute a petty misdemeanor. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(Source: Ordinance 343 adopted September 15, 1986.)

#### 730. PARK REGULATIONS

730.01 The City parks of the City of Glencoe are hereby closed to use from the hours of 12:00 o'clock A.M. to 6:00 o'clock A.M., and that no person may be lawfully upon the premises of any public park during said hours, except as permitted within the provisions of this ordinance.

730.02 No person shall dwell, reside, live, camp, stay overnight, sleep overnight, or otherwise remain overnight in any City park, public place, street or thoroughfare within the City of Glencoe, except as authorized and permitted by the terms of the provisions of this ordinance.

730.03 Persons may lawfully use Oak Leaf Park after the hour of 12:00 o'clock A.M. at such times as they are attending regularly scheduled functions in the Glencoe Sportsman's Cabin. Such persons, however, shall remain within the Glencoe Sportsman's Cabin or the immediate vicinity or parking lot. Further, such persons upon departing the Glencoe Sportsman's Cabin shall proceed directly from Oak Leaf Park and not remain upon any other portion thereof during the hours in which said park is closed.

730.04 That overnight camping shall be permitted in the parking area adjacent to the Glencoe Sportsman's Cabin in Oak Leaf Park, subject to the following specific terms and conditions:

- a. That any person desiring to camp overnight in Oak Leaf Park shall contact the Chief of Police, or an on-duty police officer in the City of Glencoe and apply for a permit authorizing such camping.

- b. The person making such a request for a permit shall provide his or her name and address, length of time the person desires to use the designated area of Oak Leaf Park for camping, and provide the license plate(s) of his vehicle and/or recreational vehicle; such persons shall permit the Chief of Police or the police officer to inspect the recreational equipment to be used for the camping for the purpose of confirming that the equipment meets with the terms and conditions of this ordinance.
- c. That no person shall be issued a permit for more than three consecutive days commencing from the time said permit is issued, nor shall any person be issued a permit on two separate occasions in any 30-day period.
- d. No person shall be issued any permit unless in the course of such camping, recreational equipment as defined in Minnesota Statutes ' 168.011, Subd. 25 is used, and all sleeping occurs within such recreational equipment. In no case shall any person be authorized to sleep outside of said recreations equipment, or in any other vehicle, trailer, contrivance, tent or shelter.
- e. During the course of the use of said park as a camping facility all persons shall: allow no debris, litter, or waste to accumulate or be left upon the grounds; leave the area in a neat, clean and orderly fashion; permit no disturbance; not interfere with any other park activity whatsoever; remain within their recreational equipment between the hours of 12:00 o'clock A.M. and 6:00 o'clock A.M.
- f. The City Clerk shall develop and prescribe a form application and permit to be used.

730.05 That the City Council shall have the authority from time to time to waive the provisions of this ordinance to permit camping in the City parks or other public place, if the same is done in conjunction with an authorized fair, exhibition, tournament, or other community activity, which has been approved by the City Council to include overnight camping, and then only in the form and manner approved.

730.06 That the Chief of Police and all on duty police officers are charged with the duty of removing and evicting any person from any City park, public place, street or thoroughfare who is violating the terms and provisions of this ordinance, and/or permit issued or authorized.

730.07 The City Council is granted the authority to adopt by resolution rules which regulate conduct of persons and activities within the city parks. Such rules shall be posted permanently within the parks to which they apply, and a copy of rules shall be provided to all persons renting park facilities. A violation of any rule shall be deemed a violation of this chapter of the Glencoe Municipal Code.

730.08 That violation of this ordinance shall constitute a petty misdemeanor. Each day a

violation occurs shall constitute a separate offense. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

**(Source:** Ordinance 309 adopted July 5, 1983; Sections 730.07 and 730.08 amended by Ordinance No. 417 adopted August 7, 1995.)

### Section 735 Peddlers, Solicitors and Transient Merchants Regulation

735.01 Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. "Peddler" means any person, whether a resident of the City or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale or making sales and delivering articles to purchasers. It does not include vendors who distribute products to regular customers on regular established routes.
- B. "Solicitor" means any person, whether a resident of the city or not who goes from house to house, from place to place, or from street to street, in person or by telephone, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition includes any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or other place within the City for the primary purpose of exhibiting samples and taking orders for future delivery. It does not include vendors who distribute products to or take orders from regular customers on regular established routes or display products or take orders at invited in-home demonstrations.
- C. "Transient Merchant" includes any person, firm or corporation, whether as owner,

agent, consignee, or employee whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, lodging houses, apartments, shops, or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition does not include any person who, while occupying such temporary location, does not sell from

stock, but exhibits samples for the purpose of securing orders for future delivery only. The person so engaged is relieved from complying with the provisions of this Section merely by reason of associating temporarily with any local dealer, trader, merchant, auctioneer or organization or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, auctioneer or organization.

735.02 License Required It is unlawful for any peddler, solicitor or transient merchant to engage in any business within the City without first obtaining a license therefor from the City.

735.03 Exemptions This Section does not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor to the acts of merchants or their employees in delivery goods in the regular course of business. Nor shall the provisions of this Section be applied to the acts of persons selling or displaying personal property, goods or wares to merchants or their employees for use in said merchant's business or sale upon consignment by said merchant. Nothing contained in this Section prohibits any sale required by statute or by order of any court, or prevents any person conducting a bona fide auction sale pursuant to law.

735.04 Application Applicants for a license under this Section shall file with the City Administrator a sworn application in writing on a form to be furnished by the City Administrator. The application shall give the following information:

- A. Name and physical description of applicant;
- B. Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- C. A brief description of the nature of the business and the goods to be sold;
- D. The name and address of the employer, principal or supplier of the applicant, together with credentials therefrom establishing the exact relationship;
- E. The length of time for which the right to do business is desired;
- F. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- G. A recent photograph of the applicant which picture shall be approximately 2" by 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- H. The names of at least two property owners of McLeod County, Minnesota, who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available

evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

- I. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any City Code provision, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor;
- J. The last municipalities, not to exceed three, where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities;
- K. At the time of filing the application, a license/investigation fee adopted by resolution of the Council shall be paid to the City Administrator to cover the cost of investigation of the facts stated therein.

735.05 Religious and Charitable Organizations, Exemption The provisions of this Section shall not apply to any organizations, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations upon the streets, in office or business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose.

735.06 Investigation and Issuance

- A. Upon receipt of each application, it shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this Section within seven (7) days after it has been filed by the applicant with the City Administrator.
- B. As a result of such investigation the Chief of Police shall endorse his approval or disapproval on such application and his reasons for the same, and return the application to the City Administrator who shall place the license before the Council for its consideration for rejection or issuance within thirty (30) days from the date of the application.
- C. If the Council shall reject such application, the City Administrator shall notify the applicant that his application is disapproved and that no license will be issued. If the

Council shall approve such application, the City Administrator shall deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name and address of said licensee, the class of license issued and the kinds of goods to be sold thereunder, the date of

issuance and the length of time, not to exceed one year from the date of issuance that the same shall be operative, as well as the license number. Each peddler, solicitor, or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The City Administrator shall keep a permanent record of all licenses issued.

735.07 Loud Noises and Speaking Devices No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the City or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

735.08 Use of Streets No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this Section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

735.09 Exhibition of License Licensees are required to exhibit their license at the request of any citizen.

735.10 Duty of Police to Enforce It shall be the duty of the police to require any person seen peddling, soliciting or canvassing and who is not known by such officer to have obtained a license hereunder to produce his license and to enforce the provisions of this Section against any person found to be violating the same.

735.11 Records The Chief of Police shall report to the City Administrator all convictions for violation of this Section and the City Administrator shall maintain a record for each license issued and record the reports of violation therein.

735.12 Revocation of License

- A. Licenses issued under the provisions of this Section may be revoked by the Council after notice and hearing, for any of the following causes:
1. Fraud, misrepresentation, or incorrect statement contained in the application for license;
  2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business at solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;
  3. Any violation of this Section;
  4. Conviction of any crime or misdemeanor;

5. Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to health, safety or general welfare of the public.

B. Notice of the hearing for revocation of a license shall be given by the City Administrator in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid to the licensee at his known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

735.13 Reapplication No licensee whose license has been revoked shall make further application until at least six (6) months have elapsed since the last previous revocation.

735.14 Expiration of License All annual licenses issued under the provisions of this Section shall expire at midnight the 31st day of December in the year when issued. Other than annual licenses shall expire at midnight on the date specified in the license."

(**Source:** Ordinance 212 adopted November 20, 1967, amended by Ordinance No. 384 dated June 17, 1991.)

## 737 USE OF SOUND AMPLIFICATION EQUIPMENT

737.01 It shall be unlawful for any person, whether in a public or private place, to play or permit to be played, any form of sound amplification equipment, including AM/FM radio receiving set, tape player, stereo player, phonograph, compact disc player, musical instrument amplifier, or other machinery or device capable of producing or reproducing amplified sound from which sound emanates as proscribed herein as offensive.

737.02 It is prima facie evidence that the amplified sound is offensive if it can be clearly heard from a distance of 50 feet, or notwithstanding the distance, that it can be clearly heard in any dwelling unit other than that in which the sound is being produced.

737.03 The owner or other person in control of the sound producing device shall immediately abate the offensive sound when ordered to do so by a peace officer.

737.04 Violation of this code section shall constitute a petty misdemeanor, subject to the penalties therefore as provided by this code.

**Source:** Section 737 added by Ordinance No. 449 on July 20, 1998. Section 737.04

amended by Ordinance No. 458 on October 4, 1999.

738                    USE OF EXHAUST BRAKES

738.01 It shall be unlawful for any person on any street or highway or alley within the City of Glencoe to operate any motor vehicle which does not have a good and sufficient device to reasonably muffle the exhaust noise. Prohibited are broken, damaged or worn out mufflers and vehicles with no mufflers. Also prohibited is the use or engagement of any unmuffled exhaust brake, sometimes referred to as Jacob Brake or a Jake Brake, within the course of the use of any motor vehicle or used to slow the vehicle, except in emergency situations. Other braking systems which do not rely on exhaust retardation which are made by the Jacob Vehicle System Company are not prohibited.

738.02 The City Council is authorized to direct by resolution the erection of ANoise Ordinance Enforced signs at such locations the City Council deems appropriate, to advise motorists of the prohibition described by this code provision, and further to request erection of similar signs by the Minnesota Department of Transportation upon state highways entering the City of Glencoe.

738.03 The provisions of Minnesota Rules Chapter 7030.1000 through 7030.1050 are hereby incorporated into the Glencoe Municipal Code by reference.

738.04 Violation of the provisions of this Chapter 738 of the Glencoe Municipal Code shall constitute a petty misdemeanor and is subject to penalties as provided by this code.

**Source:** Section 738 added by Ordinance No. 457 approved October 4, 1999. Section 738 amended by Ordinance No. 463 on April 17, 2000.

740. COLLECTION OF CHARGES DUE CITY

740.01 That any costs, charge or expense within this Code shall be certified to the County Auditor to be collected with real estate taxes in the mode and manner that special assessments are collected under Minnesota Statutes Chapter 429, providing, however, all of the following procedures herein established are carried out.

740.02 Upon any such charge, cost or expense being at least two (2) calendar quarters delinquent and unpaid to the City of Glencoe as required within any such Ordinance, the City Clerk shall bring said matter to the attention of the City Council. It shall be the duty of the City Council to direct the Clerk to prepare a notice of intent to certify said cost to the County Auditor upon the form designated by the original ordinance and on file in the City Clerk's Office. Upon the preparation of such form the City Clerk shall forward a copy of the same to the property owner of the affected property by United States mail, directed to his last known address. If said cost, charge or expense not be paid within ten (10) days for the date of the mailing of said notice, the City Clerk shall file an original copy of said notice with the McLeod County Recorder to be indexed against the affected real estate.

740.03 That should said cost, charge or expense for which a notice has been filed with the County Recorder not be paid by the first regular Council meeting in the month of August of each year, the City Clerk shall bring to the attention of the City Council such facts. The City Council shall then set a public hearing concerning all such unpaid costs, expenses and charges on the first regular Council meeting in the month of September of each year. Notice of said hearing shall be made by mailing to each affected property one notice stating the time, date and place of the hearing, and including a statement of the amount to be certified over to the County Auditor, a short statement of purpose for which the cost was incurred, and the date or dates upon which the same was incurred. The City Clerk shall also cause to be published in the official newspaper a notice of said hearing at least one week prior to the date for said hearing, stating the purpose for which the hearing will be held and include a reasonable legal description or an abbreviation thereof, the name of the affected property owner, and the amount of the claimed amount of said cost or charge or expense.

740.04 At said hearing, the City Council shall hear any interested persons concerning said costs, expenses or charges. Following said hearing, the Council shall make its determination and shall instruct the Clerk as to the proper charges to be certified over on any particular property. The City Clerk shall certify all such charges to the McLeod Auditor by October 10, immediately following said hearing, provided no action has been commenced by any person in the McLeod County Court, Civil Division, appealing the action of the City Council.

740.05 Upon an appeal to the District Court, the Court shall determine whether or not the cost or charge was incurred by the property owner or his agent, tenant,

licensee, invitee, or other person lawfully on the premises; whether the cost or charge was accurate under the rate of expense or service so performed; whether the procedure required by this Ordinance has been followed; or whether the City Council of the City of Glencoe has acted in any arbitrary, capricious or unreasonable manner.

740.06 That upon any cost, expense or charge herein referred to being paid or discharged, or upon the same being certified to the McLeod County Auditor to be collected with taxes, the City Clerk shall release the notice of claim filed with the McLeod County Recorder.

740.07 That these code provisions shall have no affect on any procedure required or specified within Minnesota Statutes Chapter 429 or any other State Statute as respects the collection of special assessments or taxes.

**(Source:** Ordinance No. 394, adopted January 19, 1981.)

741 FINANCE CHARGES ON SUMS DUE CITY

741.01 There is hereby established a service charge of 1-1/2% per month on the unpaid balance of any sum of money due to the City of Glencoe, except upon water, sewer and garbage collection charges, however, including and not being limited to sums due for airplane fuel, hangar rent, snow removal, water meter purchase, service work, equipment or labor rental and use or any other sum or charge.

741.02 The finance charge shall be imposed and collection upon any such sum due longer than 30 days from the date of original billing and reimposed monthly thereafter until paid in full.

741.03 Nothing in these code sections however shall be construed to impose a service charge upon special assessments levied pursuant to Minnesota Statutes 429, real estate taxes levied by the City, or any other charge for which the City is prohibited from imposing or collecting such a service charge.

(Source: Ordinance No. 331 adopted November 4, 1985.)

745. SUBSTANCE SNIFFING

745.01 No person shall inhale or breath glue, paint or other substance containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichoroathane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other chemical or compound capable of inducing intoxication, elation, irrational behavior or, in any manner, distorting or changing the audio, visual or mental processes with intent to cause such condition. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

745.02 The provisions of this ordinance shall not apply to any person who inhales or breathes such material or substance pursuant to the direction of any doctor, physician, surgeon, dentist or podiatrist as so authorized to give such medical direction. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.

(Source: Ordinance 358 adopted April 17, 1989.)

750. UNCLAIMED PROPERTY

750.01 Custody of Property Belonging to Others. All property belonging to others, which lawfully comes into the possession of the City, in the course of municipal operations, shall be kept in the custody of the Chief of Police until claimed by the owner thereof. Such property shall be surrendered to the owner only upon proof of ownership satisfactory to the Chief of Police, and the payment of any registration or other fees required by law.

750.02 Disposal of Unclaimed Property. Any unclaimed property which is in the possession of the Chief of Police may be disposed of according to the provisions of Minnesota Statutes.

- ii. Abandoned Motor Vehicles. The term Abandoned motor vehicle@ means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in, and licensed pursuant to Minnesota Statutes, Chapter 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards lawfully established and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

The term Avital component parts@ means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

1. Custody. The city may take into custody and impound any abandoned motor vehicle.
1. Immediate Sale. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this Subdivision.
2. Notice. When an abandoned motor vehicle does not fall within the provisions of Subparagraph 2 of this Subdivision, the City shall give notice of the taking within five days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held,

shall inform the owner and any lien holders of their right to reclaim the vehicle under Subparagraph 4 of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents within fifteen days shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to Subparagraph 5 of this Subdivision.

The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

3. Right to Reclaim. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all parking fines as well as towing and storage charges resulting from taking the vehicle into custody within fifteen days after the date of the notice required by this Subdivision.

Nothing in this Subdivision shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of the Subparagraph, a garage keeper is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

4. Public Sale. An abandoned motor vehicle and contents taken into custody and not reclaimed under Subparagraph 4 of this Subdivision shall be sold to the highest bidder at public auction or sale, following one notice published at least seven days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership.

From the proceeds of the sale of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision and all parking fines. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety days and then shall be deposited in the General Fund of the City. In the event a sale under this

Subdivision of an abandoned motor vehicle results in proceeds insufficient to reimburse the City for the cost of towing, preserving and storing the vehicle, the City may commence an action in any court of competent jurisdiction against the owner of said abandoned vehicle or the person in actual possession of said vehicle for any such deficiency.

5. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned vehicle, the City may dispose of it as an asset without value.

iii. Abandoned Personal Property.

1. All such property shall be placed in charge of the Chief of Police who shall, if the identity and whereabouts of the owner is unknown, initiate and pursue such reasonable investigation as may be indicated under the circumstances. When the identity and whereabouts of the owner has been established, written notice shall be given that the property can be claimed by the owner from the Chief of Police.
2. If the Chief of Police is unable to identify the owner, the Chief of Police after a period of 60 days, must publish a notice once generally describing the property and stating that it will be returned to the finder thirty (30) days after publication unless the owner established his or her right to it within that period of time. If the owner fails to respond to the publication, the Chief of Police shall return the property to the finder.
3. If the owner is not found, and the finder refuses the return of the property, the Chief of Police shall report the same to the City Administrator who shall present the matter to the Council for a declaration of abandonment.

When the Council has declared the property abandoned, it shall be sold at a public auction or by sale conducted by the Chief of Police to the highest bidder and the proceeds shall be placed in the General Fund. If the sale is by public auction, notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by public auction once in the official newspaper, or by posting in a conspicuous place in the City Hall at the Administrator=s option.

4. Disposal of Property Not Sold. Where no personal property bid has been received for abandoned personal property, the City may dispose of it as an asset without value.

750.03 Records. A record shall be kept listing with respect to each such item of property the date and circumstances under which possession by the City was acquired, the date of publication of notice of sale, the date of sale and the proceeds thereof.

(Source: Ordinance 234 adopted April 3, 1972; Sections 750.01 and 750.02 amended by Ordinance No. 496 approved by City Council September 25, 2003.)

755            UNIFORM MISDEMEANOR VIOLATIONS PENALTIES AND CIVIL ADMINISTRATIVE PENALTIES

755.01            It is hereby established that the uniform penalty for a violation of any ordinance of the City of Glencoe which constitutes a petty misdemeanor shall be a fine in an amount not to exceed \$300.00.

755.02            It is hereby established that the uniform penalty for violation of any ordinance of the City of Glencoe which constitutes a misdemeanor shall be a fine in an amount not to exceed \$1,000.00, or 90 days in jail, or both.

755.03

Section 1: Section 755.03 shall be deleted in its entirety and the following paragraphs shall replace 755.03:

(1)    The City hereby authorizes the issuance of administrative citations for traffic offenses designated at Minn. Stat. § 169.999, subd. 1(b)(1), (2) and (3), as may be amended from time to time; and

(2)    The City hereby sets the fine for committing an administrative traffic violation designated by Minn. Stat. § 169.999 at the amount designated by Minn. Stat. § 169.999, subd. 5 (\$60.00), as may be amended from time to time; and

(3)    Only licensed City peace officers may issue administrative traffic citations; and

(4)    No administrative traffic citation may be issued to a holder of a commercial driver's license or the driver of a commercial vehicle in which the administrative violation was committed; and

(5)    Any challenges to an administrative citation shall proceed to district court and said administrative citation shall be changed to a district court citation; and

(6)    City staff shall separately account for administrative traffic citations authorized by this ordinance in City financial reports, summaries, and audits in keeping with common accounting practices and standards; and

(7)    City staff shall designate a special fund for the portion of administrative traffic fines that must be spent on law enforcement purposes, in keeping with common accounting practice and

standards, and to report annually, or as otherwise directed by Council, to the City Council on said fund.

(8) The following Glencoe ordinance violations which are petty misdemeanors may be made payable as a civil fine in the amount of \$60.00:

701.02	Barking dog(s)
703.05	Dog at large
701.01	Failure to obtain dog license
703.04	Violation of number of dogs or cats
737.01	Sound amplification
421.01	Snowbird
405.01	Unreasonable acceleration
705.02	Curfew – 1 <sup>st</sup> occurrence
705.02	Curfew – 2 <sup>nd</sup> occurrence
705.02	Curfew – 3 <sup>rd</sup> occurrence
725.02	Blight
725.07	Lawn clippings in street
425.02-425.04	Snowmobile violations
420.01-420.05	Parking violations

The civil fine amount for the Glencoe Ordinances may be amended from time to time.

**Section 2:** This ordinance shall take force and be in effect from and after its passage and publication.

755.04	This ordinance shall be deemed to amend the penalty provision of any other ordinance affecting the City of Glencoe.
755.05	The City Council may by resolution add or delete administrative charges and may increase or decrease administrative penalties.

(**Source:** Ordinance 359 adopted April 17, 1989; Chapter 755 amended by Ordinance No. 495 adopted by City Council August 7, 2003; Section 755.05 adopted by Ordinance No. 497 by City Council October 20, 2003. Chapter 755.03 replaced by Ordinance 552 adopted September 8, 2009)

760 VEGETATION CONTROL

760.01 The following are declared to be prohibited vegetation:

- a. Any weed or plant which is defined as a noxious weed or plant by Minnesota State Statutes.
- b. Any yard grass which exceeds the height of 6 inches from ground level to the top of any individual plant.
- c. Any vegetation, living or dead, which permits the harboring of rodents or vermin, permits the collection of stagnant ground water or encourages the accumulation of rubbish or trash.
- d. Any dead shrub, dead tree, dead bush or other dead vegetation, except for grass that does not exceed the height of 6 inches from ground level.

760.02 It shall be unlawful for the owner, lessee or occupant of any premises within the City of Glencoe to allow any prohibited vegetation as defined in Section 1 herein, to remain upon any premises owned, leased or occupied by such person within the City of Glencoe. Any prohibited vegetation which is not removed by the owner, lessee or occupant shall be abated in accordance with the manner prescribed in this ordinance.

760.03 The weed inspector of the City of Glencoe shall inspect all premises and places within the City of Glencoe as often as practical, to determine whether any condition described in Section 1 of this ordinance exists.

760.04 The weed inspector or his duly authorized agent may enter upon private premises at reasonable times for the purpose of carrying out any of the duties assigned to him under this ordinance.

760.05 Whenever the weed inspector finds with reasonable certainty that any of the prohibited conditions described in Section 1 herein exists within the City of Glencoe, he shall forthwith make a report of the same, providing a copy to the City Clerk and a copy to the property owner thereof sent to the address of such property owner according to the roles of the McLeod County Assessor. If the weed inspector finds that such condition has not been abated by the owner, lessee or occupant of said premises within five (5) days of the mailing of such notice and report, the weed inspector shall make a report of the same to the council.

760.06 Upon receipt of the weed inspector's report that a condition has not been abated, the council shall by resolution order the unlawful condition abated. Before action is taken upon such resolution, the council shall mail a notice to the affected property owner at the address of said owner according to the roles of the McLeod County Assessor, directing such owner or his agent, lessee or

occupant to show cause, if they have any, at a specific time and place for the City Council, why such condition should not be abated. At such hearing or adjournment thereof, the council shall hear the property owner, its agent, lessee or occupant with reference to the items to be abated and the council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable to provide for the doing of work by day labor or contract of the prohibited conditions that have not been abated.

760.07 The City Clerk shall keep a record of all work done to abate any prohibited condition provided for in this ordinance, including the amount expended, description of the work performed and the lands, lots or parcels involved in each case. A statement for such charges shall be sent to the owner of such lands and if not paid within thirty (30) days of the date thereof shall be collected in conformity with the ordinances providing for the collection of charges due to the City of Glencoe.

760.08 Any person, firm or corporation who violates this ordinance shall be guilty of a petty misdemeanor. Each day a violation shall constitute a separate offense. (See Uniform Misdemeanor Penalties in General Regulations Section of this Code.)

**(Source:** Ordinance No. 364 adopted August 7, 1989; Section 750.02 amended by Ordinance No. 421 adopted January 2, 1996.)

## 765 ADULT ESTABLISHMENTS

### **Section 1. Purpose and Intent.**

Subdivision 1. Findings. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- (4) Prevent additional criminal activity within the City;
- 8 Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- 9 To locate Adult Oriented Businesses away from residential areas, schools, churches, and parks and playgrounds;
- 10 Prevent concentration of Adult Oriented Businesses within certain areas of the City.

Subdivision 2. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to Adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of Adult oriented entertainment to their intended market.

### **Section 2. - Definitions.**

Subdivision 1. For purposes of this section the terms defined in this section have the meanings given them.

Subdivision 2. Adult Use. Any of the activities and businesses described below constitute "Adult Oriented Businesses" which are subject to the regulation of this Ordinance.

Subdivision 3. Adult Book and/or Media Store. An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

Subdivision 4. Adult Cabaret. An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Subdivision 5. Adult Establishment. Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios,

adult motion picture arcades, adult motion picture theaters, adult novelty businesses, and other adult establishments.

Subdivision 6. Adult Hotel or Motel. Adult Hotel or Motel means a hotel or motel form which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Subdivision 7. Adult Mini-Motion Picture Theater.

- (3) A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- (4) Any business which present motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the hewing of excerpt of motion pictures offered for sale or rent.

Subdivision 8. Adult Modeling Studio. An establishment, which excludes minors from all or part of the establishment, whose major business is the provision, to customers, or figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Subdivision 9. Adult Motion Picture Arcade. Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

Subdivision 10. Adult Motion Picture Theater. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons herein.

Subdivision 11. Adult Novelty Business. A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devices which simulate human genitals or devices which are designed for sexual stimulation.

Subdivision 12. Specified Anatomical Areas are any of the following conditions:

7. Less than completely and opaquely covered;
8. Human genitals, pubic region, or pubic hair;
9. Buttock; and
10. Female breast below a point immediately above the top of the areola; and
11. Human male genitals in a discernible turgid state, even if opaquely covered.

Subdivision 13. Specified Sexual Activities are any of the following conditions:

1. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
2. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
3. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

### **Section 3. Application of this Ordinance.**

Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Glencoe, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

### **Section 4. Location.**

During the term of this Ordinance, no Adult Oriented Businesses shall be located less than 800 feet from any residential zoning district boundary or site used for residential purposes, and less than 800 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no Adult Oriented Business may be located within 800 feet of another Adult Oriented Business. For purposes of this Ordinance, this distance shall be a horizontal measurement from the nearest existing residential district boundary or

site used for residential purposes, church site, school site, day care site, park site, or another Adult Oriented Business site to the nearest boundary of the proposed Adult Oriented Business site. In no case shall a license be issued to a premises which holds a liquor, non-intoxicating malt liquor or wine (on and/or off sale in each case) license.

### **Section 5. Hours of Operation.**

No Adult Oriented Business site shall be open to the public from the hours of 1:00 a.m. to 9:00 a.m. of any day.

### **Section 6.**

Subdivision 1. Off-site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.

Subdivision 2. Entrances - All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

Subdivision 3. Layout - The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material.

Subdivision 4. Illumination - Illumination of the premises exterior shall be adequate to observe the location and activities of all person on the exterior premises.

Subdivision 5. Signs - Signs for Adult Oriented Businesses shall comply with the City's Ordinance for signs addressed in ordinance 4, and in addition signs for Adult Oriented Businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

### **Section 7.**

Subdivision 1. Licenses Require. All establishments, including any business operating at the time this Ordinance become effective, operating or intending to operate Adult Oriented Business, shall apply for and obtain a license from the City of Glencoe. A person is in violation of the City Code if he or she operate an Adult Oriented Business without a valid license, issued by the City.

Subdivision 2. Applications. An application for a license must be made on a form provided by the City.

1. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

2. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building official.
3. Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the names, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant=s. manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and are information the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as the regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
4. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.
5. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.
6. The license fee required by this ordinance has not been paid.
7. An applicant has been convicted of a crime involving any of the following offenses:
  1. Any sex crimes as defined by Minn Stat. 609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith;
  2. Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299

inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

1. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.
  2. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
  3. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.
3. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant or applicant's spouse.

Subdivision 4. Requalification. An applicant who has been convicted of an offense listed in Section 7, Subdivision 3 (g), may qualify for an Adult Oriented Business license only when the time period required by Section 7, Subdivision 3 (g), has elapsed.

Subdivision 5. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.

Subdivision 6. Council Action. The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient the Council shall act on the application within 120 days from the date that the deficiency has been corrected.

Subdivision 7. Appeals - An Within 90 days alter the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or Clerk of the Municipality.

#### **Section 8. Fees.**

Fees shall be set by City Resolution on the fee structure.

#### **Section 9. Inspection.**

Subdivision 1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect

the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

Subdivision 2. Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 11.

Subdivision 3. Exceptions. - The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

### **Section 10. Expiration and Renewal.**

Subdivision 1. Expiration - Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 7, Subdivision 1. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.

Subdivision 2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

### **Section 11. Suspension.**

Subdivision 1. Causes of Suspension The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- (a) Violated or is not in compliance with any provision of this chapter.
2. Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.
3. Refused to allow an inspection of the Adult Oriented Business Premises as authorized by this chapter.
4. Knowingly permitted gambling by any person on the Adult Oriented Business premises.
5. Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

Subdivision 2. Notice. A suspension by the City shall be procured by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served

upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

## **Section 12. Revocation.**

Subdivision 1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended within the preceding 12 months.

Subdivision 2. Causes of Revocation The City shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted to the City during the application process;
2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee or an employee has knowingly allowed prostitution on the premises;
4. A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;
5. A licensee has been convicted of an offense listed in Section 7, Subdivision 3(g), for which the time period required in Section 7, Subdivision 3(g), has not elapsed;
6. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 7, Subdivision 30g), for which a conviction has been obtained, and the person or person were employees of the Adult Oriented Business at the time the offenses were committed.
7. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation, or sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

Subdivision 3. Appeals. - The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subdivision 4. Exceptions. Section 12, Subdivision 2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

Subdivision 5. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 12, Subdivision 2(e), an applicant may not be

granted another license until the appropriate number of years required under Section 7, Subdivision 3(g), has elapsed.

Subdivision 6. Notice. A revocation by the City shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least 10 day's notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

**Section 13. Transfer of License.**

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

**Section 14. Severability.**

Every section, provision, or part of this Ordinance or any permit issued to this ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance or any permit issued pursuant to this ordinance shall be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

(Source: Ordinance No. 481 adopted March 18, 2002)

## 770 REPEAT NUISANCE CALL SERVICE FEES

### 770.01 Purpose:

The purpose of this section is to protect the public safety, health and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which prevent police or public safety services to other residents of the City. It is the intent of the City by the adoption of this Section to impose and collect service call fees from the owner or occupant, or both, of property to which the City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover the cost over and above the cost of providing normal law or code enforcement services and police protection City wide.

### 770.02 Scope and Application:

This Section shall apply to all owners and occupants of private property, which is the subject or location of the repeat nuisance service call by the City. This Section shall apply to any repeat nuisance service calls as set forth herein made by a Glencoe peace officer, part-time officer or community service officer.

### 770.03 Definition of Nuisance Call or Similar Conduct:

- a. Any activity, conduct, or condition deemed as a public nuisance under any provision of the City Code.
- b. Any conduct, activity or condition constituting a violation of Minnesota state laws prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and
- c. Any conduct, activity, or condition constituting disorderly conduct under Chapter 609 of Minnesota Statutes.

### 770.04 Repeat Nuisance Service Call Fee:

The City may impose a repeat nuisance service call fee upon the owner or occupant of private property if the City has rendered services or responded to the property on three or more occasions within a period of 365 days in response to or for the abatement of nuisance conduct, activity or condition of the same or similar kind. The repeat nuisance service call fee under this Section shall be an amount as set forth and duly adopted by City Council resolution. All repeat nuisance service call fees imposed and charged against the owner or occupant under this Section shall be deemed delinquent 30 days after the City's mailing a billing statement therefore. Delinquent payments are subject to ten percent late penalty of the amount due.

#### 770.05 Notice:

No repeat nuisance service call fee may be imposed against an owner or occupant of property without first providing the owner or occupant with written notice of the prior nuisance service calls prior to the latest nuisance service call rendered by the City upon which the fee is imposed. The written notice shall:

- a. State the nuisance conduct, activity or condition that is or has occurred or is maintained or permitted on the property, the dates of the nuisance conduct, activity or condition;
- b. State that the owner or occupant may be subject to a repeat nuisance call service fee if a third or more nuisance service call is rendered to the property for the same nuisance, in addition to the City's right to seek other legal remedies or actions for the abatement of the nuisance or compliance with the law, and
- c. Be serviced personally or by U.S. Mail upon the owner or occupant at the last known address.

#### 770.06 Right to Appeal Repeat Nuisance Service Call Fee:

- a. Upon the imposition of a repeat nuisance service call fee, the City shall inform the owner or occupant of his/her right to a hearing on the alleged repeat nuisance service calls. The owner or occupant upon whom the fee is imposed may request a hearing by service upon the Deputy Clerk at City Hall within ten business days of the mailing of the fee invoice, inclusive of the day the invoice is mailed, a written request for hearing. The hearing committee shall schedule the hearing within 14 days of the date of the owner's or occupant's request for hearing.
- b. The hearing shall be conducted in an informal manner and the Minnesota Rules of Civil Procedure and Rules of Evidence shall apply. The hearing shall be taped, but need not be transcribed at the sole expense of the party who requests the transcription. After considering all evidence submitted, the hearing committee shall make written findings of fact and conclusions on the issue of whether the City responded to or rendered services for repeat nuisance service calls of the same or similar kind on three or more occasions within a 365 day period. The findings and conclusions shall be serviced upon the owner or occupant by U.S. Mail within five days of the conclusion of the hearing.
- c. An owner or occupant's right to a hearing shall be deemed waived if the owner or occupant fails to serve written request for hearing as required herein or fails to appear at the scheduled hearing date. Upon waiver of the right to hearing, or upon the hearing officer's written findings of fact and conclusions that the repeat nuisance call service fee is warranted hereunder, the owner or occupant shall pay the fee imposed and shall be deemed delinquent 30 days after the failure to appear at the appeal hearing or after the hearing committee's written findings of fact and conclusion.

#### 770.07 Legal Remedies Nonexclusive;

Nothing in this section shall be construed to limit the City's other available legal remedies for any violation of the law which may constitute a nuisance service call hereunder, including criminal, civil, injunctive or others.

775 DISORDERLY CONDUCT IN SCHOOLS OR ON SCHOOL PROPERTY

775.01 It shall be unlawful for any person to act in a violent, quarrelsome, abusive or disorderly manner which is likely to provoke fear, anger, resentment or outrage by other person(s) in any school building or on school property within the City of Glencoe.

775.02 It shall be unlawful for any person to commit any act that disturbs or annoys others, particularly disturbing the instruction of students or otherwise creating a hostile environment not conducive to education, including, but not limited to any vulgar language, profanity, verbal harassment, or threatening behavior, or any act tending to cause a breach of peace in any school building or on school property, within the City of Glencoe.

775.03 Any person violating either subsection 775.01 or 775.02 of this ordinance shall be responsible for:

- a. First Violation – City of Glencoe administrative citation fine of One Hundred and no/100 Dollars (\$100.00).
- b. Second or subsequent violation shall result in a misdemeanor punishable as provided in this Code.

Parents or guardians of any person under the age of 18 years of age charged with violating this ordinance shall be given notice of any violation.

780 CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMPSITES

Section 1. General Provisions.

(a) Purpose and Intent. The purpose of this Ordinance is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The City Council finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.

(b) Interpretation and Application. In their interpretation and application, the provisions of this Ordinance shall be construed to protect the public health, safety and welfare.

Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Should any court of competent jurisdiction declare any section or subpart of this Ordinance to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the provision declared invalid.

(c) Fees. Fees for the administration of this Ordinance may be established and amended periodically by resolution of the City Council.

(d) Definitions. For the purposes of this Ordinance, the following terms or words shall be interpreted as follows:

1. Child shall mean any person less than 18 years of age.
2. Chemical dumpsite shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.
3. Clandestine drug lab shall mean the unlawful manufacture or attempt to manufacture controlled substances.
4. Clandestine drug lab site shall mean any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include dwellings, accessory buildings, accessory structures, a chemical dumpsite or any land.
5. Controlled substance shall mean a drug, substance or immediate precursor in Schedules I through V of M.S. §152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
6. Household hazardous wastes shall mean waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and McLeod County Health Department of Rules and regulations.
7. Manufacture, in places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.
8. Owner shall mean person, firm or corporation who owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dumpsite.
9. Public health nuisance. All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and considered a public health nuisance.

## Section 2. Administration

(a) Law Enforcement Notice to Other Authorities. Law enforcement authorities that identify conditions associated with a clandestine lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants

and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner if known, and conditions found.

(b) Declaration of Property as a Public Health Nuisance. If law enforcement determines the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance.

(c) Notice of Public Health Nuisance to Concerned Parties. Upon notification by law enforcement authorities, the City Building Official shall promptly issue a Declaration of Public Health Notice for the affected property and post a copy of the Declaration at the probable entrance to the dwelling or property. The Building Official shall also notify the owner of the property by mail and notify the following parties:

1. Occupants of the property;
2. Neighbors at probable risk;
3. The City of Glencoe Police Department; and
4. Other state and local authorities, such as MPCA and MDH, that are known to have public and environmental protection responsibilities that are applicable to the situation.

(d) Property Owner's Responsibility to Act. The Building Official shall also issue an order to abate the public health nuisance, including the following:

1. Immediately vacate those portions of the property, including building or structure interiors, that may place the occupants or visitors at risk.
2. Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling. The property owner shall notify the City of actions taken and reach an agreement with the City on the clean-up schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for clean-up.
3. Provide written documentation of the clean-up process, including a signed, written statement that the property is safe for human occupancy and that the cleanup was conducted in accordance with Minnesota Department of Health guidelines.

(e) Property Owner's Responsibility for Costs. The property owner shall be responsible for all costs of vacation or clean-up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. Public costs may include, but are not limited to:

1. Posting of the site;
2. Notification of affected parties;
3. Expenses related to the recovery of costs, including the assessment process;
4. Laboratory fees;
5. Clean-up services;
6. Administrative fees; and
7. Other associated costs.

(f) Recovery of Public Costs.

1. If, after service of notice of the Declaration of Public Health Nuisance, the property owner fails to arrange appropriate assessment and clean-up, the City Building Official is authorized to proceed in a prompt manner to initiate the on-site assessment and clean-up.
2. If the City is unable to locate the property owner within ten days of the Declaration of Public Health Nuisance, the City is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.
3. The City may abate the nuisance by removing the hazardous structure or building, or otherwise, according to Minnesota Statute Chapter 463.
4. If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all costs plus an additional 25% of the costs for administration. The City may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special assessment against the property in the manner as taxes and special assessments are certified and collected pursuant to M.S. §429.101.

(g) Authority to Modify or Remove Declaration of Public Health Nuisance.

1. The Building Official is authorized to modify the Declaration conditions or remove the Declaration of Public Health Nuisance.
2. Such modifications or removal of the Declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.

Section 3. Violations and Penalties.

Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in M.S. §609.02, Subd. 3.

(Source: Section 770 adopted by Ordinance No. 508 October 18, 2004; Section 775 adopted by Ordinance No. 509 October 18, 2004; Section 780 adopted by Ordinance No. 513 January 20, 2005)

785 REGULATIONS FOR THE OPERATION OF MOTORIZED GOLF CARTS ON CERTAIN CITY STREETS

Section 785.01 of the Glencoe Municipal Code is established to read as follows:

## Motorized Golf Carts; Operation; Permits.

- (A) Operation authorized. Operation of motorized golf carts is hereby authorized on designated roadways of streets and only in strict compliance with this section.
- (B) Permits. Permits shall be issued only to persons 18 years of age or older who have a valid driver's license of this state. Application for a permit to operate a motorized golf cart on the roadways of streets shall include the name and address of the applicant and other information as may from time to time be required by the Council. All permits shall be granted for the life of the vehicle and permit fee is non-transferable. The permit fee shall be \$25.00.
- (C) Designation of roadways. The Chief of Police shall designate city roadways or portions thereof upon which motorized golf carts shall be permitted to operate. At no time shall a golf cart be driven upon a state highway except at an intersection, and only for the purpose of crossing the state highway at the intersection a designated roadway shall remain at, or as close as possible to, the curb. All golf carts shall use the most direct route to and from the golf course.
- (D) Unlawful acts. It is unlawful for any person to operate a motorized golf cart on the roadway of a street unless:
- (1) The operator has in possession a valid, current and unrevoked permit from the city;
  - (2) The operation is on a roadway which has not been designated as prohibited for this type of operation, except crossing at an intersection;
  - (3) The operation is from one-half hour after sunrise to one-half hour before sunset;
  - (4) The operation is not during inclement weather, nor when visibility is impaired by weather, smoke, fog or other conditions, nor when there is insufficient light to clearly see persons or vehicles thereon at a distance of 500 feet;
  - (5) The motorized golf cart displays a slow moving vehicle emblem, as described by statute, on the rear thereof;
  - (6) The motorized golf cart is equipped with rear view mirrors;
  - (7) The operator has insurance coverage as provided by statute (presently M.S. §65B.48(5), as it may be amended from time to time) for motorcycles; and
  - (8) The operator observes all traffic laws, except those which cannot reasonably be applied to motorized golf carts, and except as otherwise specifically provided by statute (presently M.S. §169.045(7), as it may be amended from time to time).
- (E) Suspension or revocation of permit. The Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any provisions of this section or M.S. Chapter 169, as it may be amended from time to time, or if there is evidence that the permittee cannot safely operate the motorized golf cart on designated roadways.
- (F) Penalty. A violation of this section shall be punished as a petty misdemeanor.

(Source: Ord. No. 525 adopted July 17, 2006)

## **786 LODGING TAX**

### **786.01 DEFINITIONS.**

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

**LODGER.** The person obtaining lodging from an operator.

**LODGING.** The furnishing for a consideration of lodging by a hotel, motel, bed and breakfast or public or private campground, except where that lodging shall be for a continuous period of 30 days or more to the same lodger(s). The furnishing of rooms owned by religious, educational or nonprofit organizations for self-sponsored activities shall not constitute **LODGING** for purposes of this program.

**OPERATOR.** The person who is the proprietor of the lodging facility, whether in the capacity of owner, lessee, sublessee, licensee or any other capacity.

**RENT.** The total consideration valued in money charged for the lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

## **786.02 IMPOSITION OF TAX.**

Pursuant to M.S. § 469.190, as it may be amended from time to time, a tax is imposed on the rent charged by an operator for providing lodging to any person. A tax of 3% shall be imposed. The tax collected by the operator shall be extinguished only by payment to the City. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this program to collect from a lodger.

## **786.03 COLLECTION.**

Each operator shall collect the tax imposed by this program at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

## **786.04 EXCEPTIONS AND EXEMPTIONS.**

(A) *Exceptions.* No tax shall be imposed on rent for lodging paid by any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.

(B) *Exemptions.* An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected, and this claim shall be made in writing and under penalty of perjury on forms provided by the city. All these claims shall be forwarded to the city when the returns and collections are submitted as required by this chapter.

## **786.05 ADVERTISING NO TAX PROHIBITED.**

It is unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded.

## **786.06 PAYMENT; RETURN SUBMISSION.**

(A) The taxes imposed by this program shall be paid *at a minimum of quarterly* payments by the operator to the City. At the time of payment, the operator shall submit a return upon those forms and containing that information as the City Finance Officer may require. The return shall contain the following minimum information:

- (1) The total amount of rent collected for lodging during the period covered by the return;
- (2) The total amount of exceptions and exemptions;

- (3) The amount of tax required to be collected and due for the period;
- (4) The signature of the person filing the return or that of his or her agent duly authorized in writing;
- (5) The period covered by the return; and
- (6) The amount of uncollectible rental charges subject to the lodging tax.

(B) The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this program previously paid as a result of any transaction, the consideration for which became uncollectible during that reporting period, but only in proportion to the portion of the consideration which became uncollectible.

### **786.07 EXAMINATION OF RETURN; ADJUSTMENTS.**

The City Finance Officer shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of this examination shall be the tax to be paid. If the tax due is found to be greater than that paid, the excess shall be paid to the city within ten days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the city within ten days after determination of the refund.

### **786.08 REFUNDS.**

Any person may apply to the City Finance Officer for a refund of taxes paid in excess of the amount legally due for that period, provided that no application for a refund shall be considered unless filed within one year after that tax was paid, or within one year from the filing of the return, whichever period is the longer. The Finance Officer shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the person at the address stated upon the return. If the claim is allowed in whole or in part, the City Finance Officer shall credit the amount of the allowance against any taxes due under this program from the claimant, and the balance of the allowance, if any, shall be paid by the City Finance Officer to the claimant.

### **786.09 FAILURE TO FILE RETURN.**

(A) If any operator required by this program to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within five days of receipt of written notice and shall at the same time pay any tax due on the basis thereof. If the person shall fail to file the return or corrected return, the City Finance Officer shall make a return or corrected return for that person from that knowledge and information as the City Finance officer can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by the return) shall be paid upon within five days of the receipt of written notice and demand for payment. Any thus described return or assessment made by the Finance Officer shall be prima facie correct and valid, and the person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding with respect thereto.

(B) If any portion of a tax imposed by this program, including penalties thereon, is not paid within 30 days after it is required to be paid, the city may institute legal action as may be necessary to recover the amount due plus interest, penalties and the cost and disbursements of any action.

(C) Upon a showing of good cause, the City Finance Officer may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this chapter provided that interest during this period of extension shall be added to the taxes due at the rate of 10% per annum.

### **786.10 DELINQUENT PAYMENT; PENALTIES.**

(A) If any tax imposed by this chapter is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid.

(B) In case of any failure to make and file a return within the time prescribed by this chapter, unless it is shown that this failure is not due to willful neglect, there shall be added to the tax, in addition to the 10% specific penalty provided in division (A) above, 10% if the failure is for not more than 30 days, with an additional 5% for each additional 30 days or fraction thereof during which failure continues, not exceeding 25% in the aggregate. If the penalty as computed does not exceed \$10, a minimum penalty of \$10 shall be assessed. The amount so added to any tax shall be collected at the same

time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(C) If any person willfully fails to file any return or make any payment required by this chapter, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat this tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50% of any tax (less amounts paid on the basis of the false or fraudulent return) found due for the period to which that return related. The penalty imposed by this division shall be collected as part of the tax, and shall be in addition to any other penalties provided by this chapter.

(D) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

### **786.11 ADMINISTRATION OF TAX.**

The City Finance Officer shall administer and enforce the assessment and collection of the taxes imposed by this chapter. The City Finance Officer shall cause to be prepared blank forms for the returns and other documents required by this chapter and shall distribute the same throughout the City and furnish them upon application; but failure to receive or secure them shall not relieve any person from any obligation required under this chapter.

### **786.12 EXAMINATION OF RECORDS.**

The City Finance Officer may examine the books, papers and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this program. Every operator is directed and required to give to the City Finance Officer the means, facilities and opportunity for the examinations and investigations as are hereby authorized.

### **786.13 VIOLATIONS.**

It is unlawful for any person to willfully fail to make a return required by this program, or to fail to pay the tax after written demand for payment, or to fail to remit the taxes collected or any penalty or interest imposed by this chapter after written demand for payment, or to refuse to permit the City Finance Officer to examine the books, records and papers under his or her control or to willfully make an incomplete, false or fraudulent return.

### **786.14 DISPOSITION OF PROCEEDS.**

(A) The 95% proceeds obtained from the collection of taxes pursuant to this program shall be used in accordance with M.S. 469.190, as the same may be amended from time to time, to fund a local convention and tourism bureau for the purpose of marketing and promoting the city as a tourist and convention center. The city may retain a maximum of 5% for administrative costs.

### **786.15 APPEALS.**

(A) Any operator aggrieved by any notice, order or determination made by the City Finance Officer under this chapter may file a petition for review of that notice, order or determination, detailing the operator's reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice or determination.

(B) The petition for review shall be filed with the City Administrator within ten days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review.

(C) Upon receipt of the petition, the City Administrator, or his or her designee, shall set a date for a hearing and give the petitioner at least five days prior written notice of the date, time and place of the hearing.

(D) At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. The petitioner may be represented by counsel of the petitioner's choosing at the petitioner's own expense.

(E) The hearing examiner which shall be the Finance Committee of the City Council shall conduct the hearing and shall make written findings of fact and conclusions based upon the applicable provisions of this chapter and the evidence presented. The Finance Committee of the City Council conducting the hearing may affirm, reverse or modify the notice, order or determination made by the City Finance Officer.

(F) Any decision rendered by the hearing examiner pursuant to this section may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City Administrator within ten days

after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as practicable. The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that findings and conclusions were incorrect, the Council may modify, reverse or affirm the decision of the hearing examiner or his or her designee upon the same standards as set forth above in division (E)

Section 2: This ordinance shall be in effect and in force from and after its passage and publication.

(Ordinance No. 539 adopted September 17, 2007)

