

CHAPTER VIII: NUISANCES AND OFFENSES

PART I. NUISANCES

801.01. PUBLIC NUISANCES DEFINED: Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

1. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
2. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
3. Is guilty of any other act or omission declared by law or this ordinance to be public nuisance and for which no sentence is specifically provided.

801.02. PUBLIC NUISANCES AFFECTING HEALTH: The following are hereby declared by law or this ordinance to be nuisances affecting health:

1. Exposed accumulation of decayed or unwholesome food or vegetable matter;
2. All diseased animals running at large;
3. All ponds or pools of stagnant water;
4. Carcasses of animals not buried or destroyed within 24 hours after death;
5. Accumulations of manure, refuse, or other debris;
6. Privy vaults and garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul or disagreeable odors;
7. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial, waste, or other substances;
8. All noxious weeds and other rank growths of vegetation upon public or private property;
9. Dense smoke, noxious fumes, gas, and soot, or cinders, in unreasonable quantities;
10. All public exposure of persons having a contagious disease;
11. Any offensive trade or business as defined by statute not licensed by the city board of health as defined by law.

801.03. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY: Subdivision 1. The following are declared to be nuisances affecting public morals and decency;

1. All gambling devices, slot machines, and punch boards; unless authorized by ordinance or state statutes;
2. Betting, bookmaking, and all apparatus used in such occupations;
3. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy-houses;
4. All places where intoxicating liquor is manufactured or disposed of in violating of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
5. Any vehicle used for promiscuous sexual intercourse, or any other immoral or illegal purpose;
6. Any urination or defecation by any person in any street, alley, sidewalk, public park or other public property or any urination or defecation by any person in view of any other person, anywhere within the city limits;
7. Any person who shall appear in any street or public place in said city in a state of nudity, or in any indecent or lewd dress or make any indecent exposure or his or her person, or be

guilty or any obscene or filthy act, or any lewd, indecent, immoral or insulting conduct, language or behavior;

8. Any person found in a state of open or notorious drunkenness or intoxication within the limits of the City of Henderson;

9. Any person who shall gamble in any manner or description by fraudulent devices and practice in gaming, playing cards, dice or other games of chance on any street, alley, crossing or public grounds within the City of Henderson.

Subd 2. PURPOSES: It is the purpose and intent of this ordinance to protect the public health, safety, welfare, and morals of this community by preventing persons in any public or private place from engaging in, or offering or attempting to engage in:

A. Lewd, lascivious or immoral conduct;

B. The use of slanderous, foul, obscene, or indecent language;

C. The indecent or lascivious exposure or use of the human body, or any part thereof; or

D. Behavior, whether by words or acts, of a nature to corrupt the public morals or to outrage the sense of public decency.

1. No person, in an adult establishment, shall knowingly or intentionally engage in sexual intercourse, engage in deviate sexual conduct, appear in a state of nudity, or fondle the genitals of himself/herself or another person.

2. No person, in any location or place other than an adult establishment, with the intent to be seen by persons other than invitees and occupants of that location or place, shall engage in sexual intercourse, engage in deviate sexual conduct, appear in a state of nudity, or fondle the genitals of himself/herself or another person.

3. For purposes of this section, “nudity” shall mean the showing of the human male or female genitals, pubic areas, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

4. For purposes of this section, “adult establishment” shall mean an establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age (including any business licensed under R.C.O. ch. 125A) or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of sexual activities or anatomical areas.

5. Any person violating this section shall be guilty of a misdemeanor.

a. If any term or provision of this ordinance is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected and the ordinance shall be construed and enforced as if the ordinance did not contain the particular term or provision held to be invalid.

801.04. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY: The following are declared to be nuisances affecting peace and safety:

1. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

2. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;

3. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. All unnecessary noises and annoying vibrations;
5. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
6. Radio aerials or television antennae erected or maintained in a dangerous manner;
7. Any use of property abutting on a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks;
8. All hanging signs, awnings, and other similar structures of streets and sidewalks, or so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
9. The allowing of rain water, ice, or snow fall from any building or structure upon any street or sidewalk to flow across any sidewalk;
10. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
11. All dangerous, unguarded machinery in any public place, so situated or operated on private property as to attract the public;
12. Waste water cast upon or permitted to flow upon streets or other public property;
13. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the fire, health or safety hazards from such accumulations or from the fire, health or safety hazards from such accumulations or from the rank growth of vegetation among the items so accumulated;
14. Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;
15. Obstructions to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
16. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles, or other substances which may injure some person or animal or damage any pneumatic tire when passing over such substance;
17. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
18. All other conditions or things which are likely to cause injury to the person or property of anyone;
19. Any persons who may be found lurking, lying in wait, or concealed in any house or other building, or in any yard or premises within the limits of the city, with intent to do any mischief or to steal or to commit any offense prohibited by the laws of this state;
20. Any person who shall hereafter pitch or throw any baseball, snowball ball of any kind, or throw any stones or other missiles, or shoot arrows or coast with sleds on any street, lane, alley, or sidewalk within the limits of the City of Henderson.

801.05. NOISE CONTROL:

Subd. 1. NOISES PROHIBITED:

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

B. HORNS, AUDIBLE SIGNALING DEVICES, ETC: No person shall sound any audible signaling device on any vehicle except as a warning of danger.

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

D. DEFECTIVE VEHICLES OR LOADS: No person shall use any vehicle so out of repair or so loaded as to create loud unnecessary grating, grinding, rattling, or other noise.

E. LOADING, UNLOADING UNPACKING: No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.

F. RADIOS, PHONOGRAPHS, PAGING SYSTEMS, ETC: No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner so as to unreasonably disturb the peace, quiet, and comfort of any person nearby.

G. PARTICIPATION IN NOISY PARTIES OR GATHERINGS: No person shall participate in any party or other gathering or people giving rise to noise, disturbing the peace, quiet or repose of another person. When a police officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No persons shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

H. LOUDSPEAKERS, AMPLIFIERS FOR ADVERTISING, ETC: No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle without obtaining a permit from the city. The Council shall from time to time by resolution set the minimum standards that must be satisfied before a permit may be granted under this subdivision.

I. ANIMALS: No person shall keep any animal that disturbs the comfort, repose, or person in the vicinity by its frequent or continued noise.

J. SCHOOLS, CHURCHES, HOSPITALS, ETC: No person shall create any excessive noise on a street, alley, or public ground adjacent to any school, institution of learning, church or hospitals, nursing homes, or homes for the elderly when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

Subd. 2. HOURLY RESTRICTION ON CERTAIN OPERATIONS:

A. DOMESTIC POWER EQUIPMENT: No person shall operate a power lawn mower, power hedge clipper, chains saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. Monday through Saturday or between the hours of 9:00 a.m. and 9:00 p.m. on any Sunday or major holiday. Snow removal equipment and emergency equipment are exempt from this provision.

B. CONSTRUCTION ACTIVITIES: No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas powered machine or other power equipment except between the hours of 7:00 a.m. and 10 p.m. on Monday through

Saturday or between the hours of 9:00 a.m. 9:00 p.m. on any Sunday or major holiday. Emergency situations are exempt from this provision.

Subd. 3. ENFORCEMENT:

A. ENFORCEMENT DUTIES: The city police department shall enforce the provisions of this ordinance related to noise and animals. The police department or its members may inspect private premises other than private residences and shall make all reasonable efforts to prevent violation of this ordinance.

B. CIVIL REMEDIES: This ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

C. NOISE IMPACT STATEMENTS: The council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration, or project that may be considered a potential noise source to submit noise impact statement on a form prescribed by the council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applies for or the zoning change requested.

D. CRIMINAL PENALTIES: Every person who violates any provision or this ordinance is guilty of a misdemeanor and shall, upon, conviction, be subject to a fine of not more than \$700 or imprisonment for a term or not to exceed 90 days, or both, plus in either case, the costs or prosecution. Each act or violation and each day a violation occurs or containers constitutes a separate offense.

801.06. DUTIES OF CITY OFFICERS: The Health Officer, Street Superintendent, Mayor (weed violation enforcement), or police department shall enforce the provisions relating to nuisances affecting health, peace and safety. The police department shall enforce provisions regarding morals and decency and shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances, including the immediate abatement of an emergency nature.

801.07. ABATEMENT: Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner or occupant of the premises of such fact and shall order that such nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail, to the last known address of the owner or occupant. If premises in not occupied, then notice may be satisfied by 2 weeks publication in the local paper. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 15 days, within which such nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the council. Thereafter the council may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the city. The notice shall be served in the same manner as notice by enforcing officer is served and shall be given at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by publication, 15 days shall elapse between the day of publication and hearing.

801.08. RECOVERY OF COST: Subdivision 1. PERSONAL LIABILITY: The owner of the premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and cost determined, the city clerk or other official designated by the council shall prepare a bill for the costs and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

Subd. 2. ASSESSMENT: If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the

traveled portion of streets, or unsound or insect-infected trees, any unpaid charges by the city for the cost of elimination of the nuisance may be collected as a special assessment pursuant to Chapter III.

801.09. CIVIL REMEDIES: This ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

801.10. PENALTY: Any person convicted of violating any provisions of this ordinance is guilty of a misdemeanor, and shall be punished by a fine of not more than \$700 or imprisonment for not more than 90 days, or both, plus the costs or prosecution in either case. Each act of violation and each day a violation occurs or continues constitute as separate offense.

PART II. OFFENSES

802.01. USE OF WEAPONS: Subdivision 1. RESTRICTIONS: No person except a police officer in the performance of duty shall, within the city, discharge any gun, pistol, or firearm of any description or carry any such weapon unless it is dismantled or broken apart or carried in a case in such manner that it cannot be discharged with the exception of the conditions listed in Subdivision 5 below. This subdivision does not prevent to carrying of a handgun with in the city under a permit subject to the restrictions imposed by law.

Subd. 2. AIR RIFLES, SLING SHOTS: No person shall use or discharge any air rifle or sling shot or B.B. gun within the city.

Subd. 3. THROWING STARS, CHAIN CLUBS AND PIPE CLUBS: It shall be unlawful for any person to have in his/her possession or premises Oriental "throwing stars" and various other dangerous weapons such as chain clubs, pipe clubs and the like.

Subd. 4. OFFENSE BY PARENTS, GUARDIANS: It is unlawful for any parent or guardian of any person under the age of 18 years knowingly to permit such person to violate any provision of this section.

Subd. 5. Shooting and the Use of Firearms shall be allowed on property currently owned by the Henderson Sportsmen's Club located adjacent to Fort Road in Brown's Addition in the City of Henderson by members of said club or during club sponsored events; for gun training purposes in the presence of a licensed "Firearm Safety Instructor" on the Sportsmen's Club site or by a special permit granted by the Henderson Police Chief and/or the Henderson City Council provided the following rules are adhered to:

1. No shooting before 12:00 P.M. and 1/2 hour after sunset but in no case later than 8:00 P.M. daily.
2. Shooting on Sportsmen's Club Range shall be limited to members and guests accompanied by members (for enforcement purposes membership shall mean the membership list in possession of the Henderson Police Chief labeled "Active Membership List of the Henderson, Minnesota Sportsmen's Club"), for firearms safety training or police chief/city council permitted uses.
3. Shooting rules on range shall be posted and all members, guests or other users must be instructed and advised of said rules and local ordinances prior the discharge of firearms.
4. Range shooting is limited to rifle/pistol range for these firearms and to the trap range for shotguns.
5. No shooting at the club on Sunday and Monday of Memorial Day weekend as nationally observed.

802.02. CURFEW: Subdivision 1. Except as hereinafter provided, it shall be unlawful for any minor under the age of sixteen years to loiter, idle, or be in or upon the public streets, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant

lots or other unsupervised places, between the hours of 10:00 P.M. and 5:00 A.M. preceding a curricular school day, and between the hours of 10:30 P.M. and 5:00 A.M. on all other nights or days; provided, that the provisions of this subsection shall not apply to any minor when in the company of his/her parent, guardian or other adult person having for the time being the care and custody of such minor, or where such minor is upon some necessary business or errand by permission or direction of his/her parent, guardian or other adult person that is for the time being the care and custody of such minor.

Subd. 2. Except as hereinafter provided, it shall be unlawful for any minor sixteen years of age or older and under the age of eighteen years to loiter, idle, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment, or refreshment, vacant lots or other unsupervised places, between the hours of 10:30 P.M. and 5:00 A.M. preceding a curricular school day, and 12:00 Midnight and 5:00 A.M. on all other nights or days; provided, that the provisions of this subsection shall not apply to any minor when in the company of his/her parent, guardian or other adult person having for the time being the care and custody of such minor, or where such minor is upon some necessary business or errand by permission or direction of his/her parent, guardian or other adult person having for the time being the care and custody of such minor.

Subd. 3. Except as hereinafter provided, it shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen years to permit such minor to loiter, idle, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, and public building, or places of amusement, entertainment, or refreshment, vacant lots or other unsupervised places during the times prohibited by this section; provided, that the provisions of this section shall not apply when the minor is accompanied by his/her parent, guardian, or other adult person having the care and custody of the minor or when the minor is upon some necessary business or errand by permission or direction of his/her parent of guardian or other adult person having for the time being the care and custody of such minor.

Subd. 4. The mayor or chief of police, upon the request of the superintendent of schools or other responsible individual or group in the city, may designate certain nights as "school nights" or "youth nights" at such times as the school or other responsible individual or group shall sponsor or be engaged in athletic, musical, dramatic or social activities for the benefit or entertainment of those minors contemplated by this section. The provisions of the foregoing subsections of this section shall not apply where any minor contemplated by this section is lawfully going to, attending, or returning from such function on any designated "school night" or "youth night".

That any parent or guardian of a child mentioned in the foregoing section who is prohibited from loitering or wandering as in said section provided, who allows or permits his or her child or ward to loiter or wander contrary to the provisions of 803.02, shall be guilty of a misdemeanor.

That it shall be the duty of the city police officer in case he/she finds a child loitering or wandering contrary to the provisions of this ordinance, to make an attempt to contact the parents or guardians of such child, and if said parent or guardian cannot be reached, then the police officer shall transport the child to the nearest available juvenile detention facilities for processing. Said child shall then be treated in accordance with the juvenile system as provided by the laws of the State of Minnesota.

802.03. PEDDLING: Subdivision 1. PROHIBITION: The practice of going in and upon private property and residences in the City of Henderson by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences, for the purpose of disposing of and /or peddling or hawking the same, is hereby declared to be a nuisance and punishable as such nuisance as a misdemeanor.

Subd. 2. POLICE DUTIES: The Police Chief and police force of the city of Henderson are hereby required and directed to suppress the same, and to abate any such nuisance as is described in the first section of this section.