

TITLE XIII:
GENERAL REGULATIONS

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TITLE XIII

CHAPTER 130: GENERAL OFFENSES

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130.01 DAMAGE TO PROPERTY; GRAFFITI.

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, *GRAFFITI* shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the city.

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner 'S responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(D) Removal by the city.

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) Penalty.

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in § 130.99. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in 130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) Compliance by the city.

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

130.02 DISCHARGING FIREARMS PROHIBITED.

(A) No person shall discharge a firearm in the City of Dellwood.

(B) This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(C) If any of the above provisions are found to be in conflict with M.S. 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.

130.03 FIREWORKS.

130.031 (A) The use, display, possession, discharge or sale of any fireworks not expressly permitted by M.S. 624.20, Subd. 1(c), as it may be amended from time to time, is strictly prohibited.

130.032 (B) The regulatory provisions and definitions contained in Minnesota Statutes Section 624.20 through 624.25, as amended, a copy of which is on file in the Office of the City Clerk are hereby adopted as the Fireworks Ordinance of the City of Dellwood. Every provision contained in these sections is hereby adopted and incorporated into this Ordinance as if fully set forth herein, except as follows:

Notwithstanding anything to the contrary contained in M.S. 624.20 through M.S. 624.25, as amended, the following provisions shall apply in the City of Dellwood:

- 1) No wholesale or retail sales of fireworks shall be allowed.
- 2) No indoor display of fireworks shall be allowed.
- 3) No fireworks displays shall be conducted before 10:00 a.m. or after 11:00 p.m.
- 4) Any fireworks display shall be conducted continuously for a period not to exceed thirty (30) minutes.

130.04 PENALTY.

The penalties prescribed by Minnesota Statutes, Section 624.20 through 624.25 for violations thereof are hereby adopted as the penalties imposed for violations of this Ordinance.

OPEN BURNING

130.05 DEFINITIONS.

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

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere, except a "recreational fire" as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as "open burning."

RECREATIONAL FIRE. A fire no more than three feet in height, contained within the border of a "recreational fire site" using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a "recreation fire site" as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

WOOD. Dry, clean fuel only such as twigs , branches , limbs , "presto logs , " charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

130.06 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber,

plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.

130.07 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined herein.

130.08 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives.

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources.

130.09 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and approved by the Fire

Department. The permit application shall be presented to the Fire Chief, Fire Marshal, and Assistant Fire Marshals for reviewing and processing those applications, prior to issuance of any permit by the City.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by resolution or ordinance of the City.

130.10 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations and report to the City.

130.11 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

130.12 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals of the Department providing fire protection services to the City, or by the City Clerk. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn.

130.13 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal

of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

130.14 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

130.15 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. 88.15 to 88.22 relating to campfires and open burning as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

130.16 PENALTY.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a Misdemeanor and punished as provided by law.

CHAPTER 131

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CHAPTER 132

TRESPASS

Section:

132.01 Definitions:

- (1) "Property" means the land and any structures located thereon, and specifically includes golf courses, recreational facilities, wetlands and public waters as defined in Minnesota Statutes, Section 105.391, and railroad right-of-ways.
- (2) "Premises" means the real property and any building or structure situated on the real property and includes a construction site and dwelling.
- (3) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or part-time basis.
- (4) "Owner or Lawful Possessor" as used in paragraph (b) clause (8) includes the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired the general contractor or subcontractor engaged in that work.
- (5) "Posted" as used herein means the placement of a sign or signs at least 11 inches square in a conspicuous place on the premises. The signs must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the premises or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land; and
 - a) state "no trespassing" or similar terms;
 - b) display letters at least two inches high;
 - c) state that Minnesota law prohibits trespassing on the property; and
 - d) be posted in a conspicuous place and at intervals of 500 feet or less.

132.02 Misdemeanor Violation. A Person is guilty of a misdemeanor if the person intentionally:

- 1) permits domestic animals or fowls under the actor's control to go on the land of another within the City;
- 2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate appoint of a boundary, line or political subdivision, or of a tract of land;

- 3) trespasses on the premises of another without claim of right and refuses to depart from the premises on demand of the owner or lawful possessor;
- 4) occupies or enters the dwelling or locked or posted premises of another, without claim or right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;
- 5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;
- 6) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one without authority to consent;
- 7) returns to the property of another within one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent.

132.03 Trespass on private golf course property.

It is a misdemeanor for any person, who is not a member, to enter upon the property of a private golf club without claim of right, unless accompanied by a member or with the express consent of the general manager of the club.

PICKETING REGULATION

132.04 Targeted Residential Picketing:

Purpose. The City of Dellwood has an interest in safeguarding the right of Dellwood residents to enjoy, in the home and dwelling, a feeling of well-being, tranquility and privacy. The Dellwood City Council finds that targeted residential picketing in front of or about a residential dwelling causes emotional distress to the dwelling occupant(s); obstructs and interferes with the free use of public rights of way; and has as its object, the harassment of the dwelling occupant(s). The City Council further finds that, without resorting to targeted residential picketing, amply opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedom of speech and expression.

132.05 Definition. For purposes of this regulation, “targeted residential picketing” means standing, marching, or patrolling by one or more persons focused in front of or about a particular residential dwelling without the consent of the dwelling’s occupant(s).

132.06 Prohibited. No person shall engage in targeted residential picketing with the City of Dellwood.

132.07 Any person violating any provision of this Ordinance shall upon conviction be guilty of a misdemeanor and be subject to the penalties imposed by Minnesota Statutes, Section 609.03, as amended.

132.08 Each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

CHAPTER 133
TRAPPING ANIMALS

Section:

133.01 TRAPPING ANIMALS PROHIBITED.

No person may set or place a trap or snare for the purpose of trapping birds, fish or animals in the City of Dellwood.

133.02 EXCEPTIONS.

Any person may apply to the City Council for Permit to set or place a trap for the purpose of trapping an animal or animals which have caused and are likely to cause damage to the land or property of the applicant. The City may issue a Permit upon such terms and conditions as the City may determine to be appropriate for the purpose intended.

133.03 PENALTY.

Any person violating any provision of this Ordinance shall upon conviction, be guilty of a misdemeanor offense punishable by a fine not to exceed \$1,000.00 or imprisonment for 90 days, or both, and the costs of prosecution.

CHAPTER 134

REGULATING NOISE POLLUTION

Section:

134.01

1. Findings and Purpose. The Council finds that noise pollution is injurious to human health and welfare and should be prohibited within the City, and also finds that construction activities need to be regulated such that noise which emanates from construction sites do not unreasonably disturb the health, comfort, peace and repose of neighboring property owners and occupants. The regulations established herein are intended to reasonably control noise pollution within the City, to reasonably control the hours within which construction activities may take place, and to penalize persons who violate these regulations.

134.02

2. Definitions. The following definitions shall be applied in the interpretation and enforcement of this Section 12.08, and unless otherwise defined, all terminology used herein shall be in conformance with the definitions and standards contained in Minnesota Statutes Chapter 116 now existing and has hereafter amended, in Minnesota Rules Chapter 7030 now existing and as hereafter amended, and in the applicable publications of The American National Standards Institute or its successor body.
 - a. "Construction" means any site preparation, assembly, erection, repair, alteration, demolition or similar activity, including, without limitation, the activities of excavation, filling, cement work, masonry, framing, drilling, sanding, shingling, siding, landscaping and clearing, the moving or removal of structures, utilities, surfaces, natural growth and other property, and the use and operation of tools, appliances, equipment, machinery, motors generators, engines, air compressors, saws, jackhammers, and other devices which emit audible noise that are used in any such activities.
 - b. "Commercial Contractor" means a person who pursuant to a written or oral contract providing for compensation performs construction or causes construction to occur.
 - c. "Emergency" means an occurrence or set of circumstances involving actual or imminent physical injury or property damage which demands prompt attention.
 - d. "Motor Vehicle" means any vehicle which is propelled or drawn on land by a motor or engine, such as passenger cars, trucks, truck trailers, semi-trailers, buses, campers, go-carts, snowmobiles, all-terrain vehicles, recreational vehicles, motor scooters, mini-bikes, and motorcycles.
 - e. "Noise" means any sound not occurring in the natural environment.
 - f. "Noise Pollution" means the presence in the outdoor atmosphere of any noise or combination of noises in such quantity, or at such levels, or of such nature or duration, or under such conditions as is injurious to human health, safety or

welfare, unreasonably interferes with the enjoyment of life or property, and which exceeds the MPCA standards as defined in paragraph 3 below.

- g. "Person" means any individual human being, agency, corporation, partnership, firm, association, or other company or other organization or legal entity, and an officer, partner, employee, agent, contractor or other legal representative of any of the foregoing.
- h. "Property Boundary" means a line along the ground surface and its vertical extension which separates the real property owned by one person from that owned by another person.
- i. "Sound Instrument" means radio, television, phonograph, stereo system, drum, musical instrument, loud speaker, public address system, sound amplifier, paging system or other device which produces, reproduces or amplifies sound.
- j. "Vibration" means an oscillatory motion of solid bodies or deterministic or random nature described by displacement, velocity or acceleration with respect to a given point of reference.
- k. "Weekday" means any day Monday through Friday which is not a legal holiday under federal or state law.

134.03

- 3. Adoption by Reference. Pursuant to M.S. 471.62 there is hereby adopted by reference and incorporated herein the Minnesota Pollution Control Agency standards adopted pursuant to M.S. Chapter 1 16, describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, as such standards now exist and are hereafter amended or adopted, including the standards established in Minnesota Rules Parts 7030.0040, 7030.0050, 7030. 1040, 7030.1050 and 7030. 1060 (hereinafter referred to as the "MPCA Standards").

134.04

4. Maximum Noise Levels.

- a. General Prohibition. No person shall make, or cause to be made, or permit another person over whom they have responsibility or control which on property they own or legally possess to make, any noise audible across a property boundary which constitutes noise pollution. This general prohibition is not limited by the specific prohibitions contained in the following paragraphs.
- b. Exceeding State Standards. No person shall make or operate, or cause or permit to be operated, any source of noise in such a manner as to create noise on any receiving lands use within the City, when measured at or within the property boundary of the receiving land use, which exceeds the noise limits established for land use in the MPCA Standards. Notwithstanding the foregoing, a household unit located on property which is zoned for non-residential use shall be deemed to be within Noise Area Classification 2 under the MPCA Standards.
- c. Motor Vehicles. No person shall operate a motor vehicle in the City in violation of the motor vehicle noise limits established in the MPCA Standards.
- d. Motor Vehicle Horns. Audible Signaling Devices. No person shall sound a motor vehicle horn, siren, or whistle, or any other audible signaling device, except as a

- warning of danger.
- e. Exhaust. No person shall discharge, or permit the discharge of, exhaust from any internal combustion engine, steam engine, motor vehicle, motorboat or other vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom, which is in good repair, and which is in compliance with the applicable governmental laws and regulations.
 - f. General Prohibitions. Between the hours of 10:00 p.m. and 7:00 a.m. the following day in any area of the City zoned for residential use, or within 200 feet of any area of the City used for residential, school, church, library, hospital or nursing home purposes, the following activities, if they produce noise pollution as defined in this ordinance, shall be regulated as follows:
 - (i) Sound Instruments. No person shall operate or play or permit to be operated or played, a sound instrument.
 - (ii) Loading and Unloading. No person shall load, unload, open, close, or otherwise handle boxes, crates, containers, building materials, garbage cans, refuse, dumpsters, or similar objects.
 - (iii) Service and Repair. No person shall construct, service or repair motor vehicles, motorboats or other motorized equipment, and
 - (iv) Power Tools and Equipment. No person shall operate or permit the operation in the outdoor atmosphere of a mechanically powered saw, sander, drill, grinder, other power tool, or a power lawn mower, or other garden or landscape tool, or a chainsaw, snow blower, tractor, or similar power equipment or device.
 - g. Non-Emergency Signal Devices. No person shall operate, sound or permit the sounding of any signal from a stationary bell, chime, siren, whistle, or similar device intended for use primarily for non-emergency purposes (i) between the hours of 10:00 p.m. and 7:00 a.m. the following day, or (ii) at any other time for more than 30 seconds in any period of 60 minutes.
 - h. Emergency Signal Devices. Except for emergency purposes or for testing, no person shall intentionally operate, sound, or permit the sounding of outdoor atmosphere of any fire, burglar, motor vehicle, or civil defense alarm, siren, whistle, horn or other emergency signaling device. This subparagraph shall not apply to normal use of back up alarms on vehicles.
 - i. Vibration. No person shall operate or permit the operation of any machine, engine or device which creates a substantial vibration which is above the vibration perception threshold of an individual person of normal sensitivities across the property boundary of the source; this subparagraph shall not apply to motor vehicle using, or construction occurring on, public streets and highways.
 - j. Explosives, Firearms, Fireworks. Except by permit issued by the City, the use, discharge of firing of explosives, firearms (except by public safety officers) or fireworks is prohibited at all times and places.
 - k. Exceptions. The provisions of this paragraph 4 shall not apply to the emission of sound (i) for the purpose of alerting persons to the existence of an emergency or imminent danger, or (ii) in the performance of work intended to prevent or

eliminate an emergency or dangerous condition or (iii) in connection with organized school, church or public programs, activities, or events, or in connection with other community programs, activities, events or parades for which a permit has been issued by the City. This subparagraph shall not apply to non-commercial spoken language, for which a permit has been obtained.

134.05

5. Prohibition of Commercial Construction Activity During Certain Times.

- A. No person shall engage in or permit construction activity by a commercial contractor which produces noise which is audible across, or sustained vibration which is perceptible across, a property boundary within the City ("Construction Activity") except between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 8:00 a.m. and 6:00 p.m. on Saturdays; no Construction Activity may occur on Sundays or on federal or state holidays.
- B. Exceptions to the foregoing prohibition of Construction Activity may be allowed only by permit issued by the City upon the application of a person who demonstrates either (i) that an emergency exists requiring Construction Activity within the prohibited hours or days (ii) that a substantial economic loss will result, on account of events or circumstances beyond the control of the applicant, unless extended hours of Construction Activity is allowed. The application shall be processed by the City in the same manner as an application for a building permit and the application fees shall be \$25.00. If the City Building Official determines that an emergency exists, the permit may be issued for the conduct of Construction Activity on the specific locations involving during any hour of any day while the emergency continues, but not to exceed 48 hours; such permit may be renewed for successive periods of up to 48 hours if the City Building Official determines that the emergency continues. If the City Building Official determines that, on account of events or circumstances beyond the control of the applicant, substantial economic loss will result from compliance with subsection 5A above, the permit may be issued but it may only extend the permitted hours of Construction Activity on the property involved for specific hours within the period between 7:00 p.m. and 9:30 p.m. on weekdays, and/or within the period between 6:00 p.m. and 8:30 p.m. on Saturdays, and or within the period between 1 :00 p.m. on Sundays and holidays; and such permit shall contain the condition that during any such extended hours of Construction Activity, all powered equipment, tools, appliances, machinery, generators, compressors, saws, jackhammers and other powered devices shall be operated not less than 600 feet in any direction from any residential building.

134.06

6. Special Variances. The City Building Official or designated representative shall have the authority, consistent with this Section, to grant special variances. Any person seeking a special variance shall file an application with the City, containing information which demonstrates that bringing the source of sound or activity into compliance with this ordinance would constitute an unreasonable hardship on the

applicant, on the community or on other persons. Enforcement of this ordinance shall be stayed as to any person filing an application for special variance until such time as the Building Official has issued a decision, unless such a stay would cause imminent peril to life, health or property. Notice of application shall be given to the public in the same manner as for a variance under the City Zoning Ordinance. Any person who claims to be adversely affected by the allowance of the special variance may file a statement with the City to support such claim. In determine whether to grant or deny the application, the City shall balance the hardship to the applicant, the community and other persons claimed by the applicant against the adverse impact on the health and welfare of persons affected, the adverse impact on property or animals affected, and any other adverse impact of granting the special variance. Applicants and person contesting such application shall be required to submit to the City any information which the Building Official may reasonably require. In granting or denying an application, the Building Official shall file the decision and the reasons in support thereof. Any person aggrieved of such decision may appeal the same to the City Council, acting as a Board of Appeal in writing specifying the grounds for appeal and accompanied by a filing fee of \$60.00 in cash or certified funds. The appeal shall be heard within 30 days after such appeal is filed and the fee paid, and at least five days advance notice of the time and place of such hearing shall be sent to the person appealing. The City Council may affirm, modify or reverse in whole or in part, the application. The Council will return all or part of the filing fee if the appeal is upheld. If the special variance is granted, it shall be subject to all necessary conditions as determined by the City, including without limitation, day and time limitations on the permitted activity, steps to be taken to buffer or muffle the noise, and a date on which the permit shall expire. The special variance shall not become effective unless and until the applicant shall agree to all such conditions, and non-compliance with any such condition shall terminate the special variance and subject the person holding it to the provisions of this ordinance regulating the source of sound or activity for which the variance is granted.

134.07

7. Abatement Order.

- A. Abatement Order. In lieu of issuing a notice of violation or citation, the City Building Official or the Code Enforcement Officer or any law enforcement officer, may issue an order requiring the immediate abatement of any activity or any source of sound which is in violation of this Ordinance. The abatement order shall be in writing, describe the location and nature of the violation of this ordinance, establish a prescribed time for the abatement of the violation, notify of the appeal rights, and be served on the person violating this order or on its agent or on the owner or occupant of the property whereon the activity or source of sound has occurred, and ordering the person, agent, owner or occupant to abate and correct such violation. Such notice shall be deemed properly served if a copy is served personally, or sent by certified mail to the last known address of the person, or posted at a conspicuous place at the property involved. If any person to whom an abatement order is directed alleges that such order is based upon an

erroneous interpretation of this ordinance or the facts, such personal may appeal to the City Clerk within five days after service of such order, such appeal shall be in writing and state with specificity the grounds for appeal. The City Clerk shall review the appeal and either grant or deny it. If denied, within five days after service of the City Clerk's decision, the person may appeal such decision to the City Council sitting as a Board of Appeal, in writing specifying the grounds for appeal and accompanied by a filing fee of \$60.00 in cash or certified funds. The filing of an appeal shall stay all proceedings for enforcement of this ordinance and the abatement order with respect to the action appealed from, unless such a stay would cause imminent peril to life, health, or property. The appeal to the City Council shall be heard within 30 days after such appeal is filed and the fee paid, and at least five days advance notice of the time and place of such hearing shall be sent to the person appealing. The City Council may affirm, modify, or reverse, in whole or in part, the abatement order. The Council will return all or a part of the filing fee if the appeal is upheld.

- B. Violation. Except where a person is acting diligently and in good faith to comply with an abatement order, any violation of this ordinance shall be cause for a notice of violation or a citation to be issued by the City Building Official, or the Code Enforcement Official, or any other law enforcement officer. Any person convicted of a violation of this ordinance shall be guilty of a misdemeanor, and a separate offense shall be deemed committed for each day during or on which a violation occurs or continues.
- C. Other Remedies. No provision of this Ordinance shall be construed to impair or limit exercise of any other available remedy at law or in equity by any person for injury or damage arising from a violation of this ordinance.

CHAPTER 135

FALSE ALARMS

Section:

135.01

The purpose of this Ordinance is to encourage security, fire and medical alarm users and alarm business (including, but not limited to, sales, installation and/or monitoring) to maintain the operational reliability and proper use of alarm systems so as to limit unnecessary police, fire and emergency medical responses to false alarm and alarm malfunctions.

The Ordinance governs burglary, robbery, intrusion, fire and medical emergency false alarms, provides for service fees for excessive false alarms and provides for issuance of citations for violations thereof.

135.02

Definitions.

- 1) Alarm site means a single premises or location, or a multi-tenant location, served by an alarm system or systems.
- 2) Alarm system means any mechanical, electrical, or radio controlled device or system which is designed to emit, transmit or relay a signal or message and which, when activated, is intended to summon, or that what would reasonably be expected to summon, police, fire or emergency medical services. Alarm systems do not include:
 - a) an alarm installed on a vehicle, unless the vehicle is permanently located at a site.
or
 - b) All alarm designed to alert only the inhabitants of a premises, and which does constitute a local alarm.
- 3) False alarm means the activation of an alarm system signal or message which elicits notification to an or response by the Washington County Sheriff's Office when there is no evidence of a crime, fire, medical emergency or other activity which warrants a call for immediate police, fire fighting or emergency medical assistance. This may include, but it not limited to, an alarm discovered by a police officer or firefighter before notification of an alarm from a monitor or from a local alarm system that is not monitored.
- 4) Fire or Emergency Medical Alarm means a system or portion of a combination system consisting of components and circuits arranged to monitor and annunciate the status of fire or medical emergency or supervisory signal initiating devices which are intended to summon fire or emergency medical services of the Washington County Sheriff's Office.

5) Intrusion Alarm means robbery, burglary, panic and other alarm intended to summon the police, which is designed either to be initiated purposely by or person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion.

6) Local Alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of the structure.

7) Warning Notice means a notification provided to the owner or person in charge of an alarm site by the Washington County Sheriff's Office for false alarms due to system malfunction or when no reason can be determine for the false alarm. The warning notice will require that the alarm system be inspected and or services within five working days with written documentation submitted to the Sheriff's Office that the system is in working order.

8) Audible Alarm means a device designed for the detection of unauthorized entry onto the property and which when activated emits an audible sound on or near the property.

153.03

INTRUSION ALARM SYSTEMS.

1) Each time the Washington County Sheriff's Office responds to a false intrusion alarm due to system malfunction or when no reason can be determined for such false alarms, the Washington County Sheriff's Office shall issue a false alarm warning notice.

2) A service fee for excessive false intrusion alarms shall be charged as follows:

a) No service fee shall be charged for the first three false alarms occurring within a twelve month period, calculated fro the date of the first such alarm.

b) Each false alarm in excess of three and up to and including six within a twelve month period shall result in a service fee of \$50.00 per false alarm.

c) Each false alarm in excess of six within a twelve month period shall result in a service fee of \$100.00 per false alarm.

3) No service fee shall be assessed if the false alarm is:

a) Caused by an electrical storm, tornado or other act of God where there is clear evidence of physical damage to the alarm system.

b) Caused by the intermittent disruption of telephone circuits beyond the control of the alarm site owner.

c) Caused by electrical power disruption or failure in excess of two hours beyond the control of the alarm site owner.

d) At a location where the Washington County Sheriff's Office has installed the Varda or other similar alarms.

4) All false alarm service fees shall be paid to the City of Dellwood within 30 days from the date of invoice. In the event fees are not received by the City as required by this Ordinance, the City may refer the matter to the City Attorney for appropriate legal action. The City may enforce payment of the fees by whatever means necessary.

including a civil action against the person or persons responsible for payment of such fees or by certifying such fees to the County Auditor to be assessed against the property upon which the alarm system involved is situated and to be paid as a part of the property tax.

An offense shall constitute a misdemeanor offense as provided in section 135.05 of this Ordinance.

5) A person commits an offense in violation of this Ordinance if such person suffers or permits false alarms in excess of three within a twelve month period, each false alarm constituting a separate offense.

135.04

AUDIBLE ALARM SYSTEM REQUIREMENTS.

1) All audible alarm systems shall meet the requirements of this section.

2) Every person maintaining an audible alarm shall post a notice containing the name and telephone number of the person to be notified to render repairs or service during any hour of the day or night. Each notice shall be posted at the main entrance to the premises near the alarm in position as to be clearly legible from the ground level adjacent to the building, or kept currently corrected and on file with the Washington County Sheriff's Office and Fire Marshall's Office.

3) Audible alarms which are similar in sound to police, fire or emergency vehicles are forbidden.

4) Audible alarms shall have an automatic disconnect which will silence the audible alarm within 20 minutes from activation of the alarm.

135.05

FIRE OR EMERGENCY MEDICAL ALARM SYSTEMS.

1) Each time the Washington County Sheriff's Office response to a false alarm due to system malfunction or when no reason can be determined for such false alarm, the Washington County Sheriff's Office shall issue a warning notice.

2) A service fee for excess false alarms shall be charged as follows:

- a) No service fee shall be charged for the first three alarms occurring within a twelve month period, calculated from the date of the first such alarm.
- b) Each false alarm in excess of three and up to and including six within a twelve month period shall result in a service fee of \$100.00 per false alarm.
- c) Each false alarm in excess of six within a twelve month period shall result in a service fee of \$200.00 per false alarm.

- 3) No service fee shall be assessed if the false alarm is:
- a) Caused by an electrical storm, tornado or other act of God where there is clear evidence of physical damage to the alarm system.
 - b) Caused by the intermittent disruption of telephone circuits beyond the control of the alarm site owner.
 - c) Caused by electrical power disruption or failure in excess of two hours beyond the control of the alarm site owner.
- 4) All false alarm service fees are due and payable within 30 days from date of invoice. In the event false alarm service fees are not paid as required by this Ordinance, the Washington County Sheriff's Office may refer the matter to the County Attorney for appropriate legal action.

135.06

PENALTY.

A person commits an offense in violation of this Section if such person suffers or permits false alarms in excess of three with a twelve month period, each false alarm constituting a separate violation. A violation of this Ordinance is a Misdemeanor punishable by law.