

CHAPTER 10. PUBLIC PROTECTION, CRIMES AND OFFENSES

Section 1000 - WASTES

1000.01 Unlawful Deposit of Garbage, Litter or Like. It is unlawful for any person to deposit garbage, rubbish, offal, the body of a dead animal, or other litter in or upon any public street, public waters or the ice thereon, public lands, or, without the consent of the owner, private lands or water or ice thereon.

1000.02 Dog, Cat, and Horse Waste. It is unlawful for any person who owns, harbors or has custody of a dog, cat, or horse to cause or permit the animal to defecate on any public property or, without the consent of the owner, on any private property unless the person immediately removes the excrement and properly disposes of it. It is unlawful for any person to be in possession of a dog, cat, or horse on public property without also having in possession removal equipment and supplies.

Section 1005 - DANGEROUS WEAPONS AND ARTICLES

1005.01 Acts Prohibited. It is unlawful for any person to:

- A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
- B. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
- C. Manufacture or sell for any unlawful purpose any weapon known as a sling shot or sand club; or,
- D. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,
- E. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,
- F. Sell or have in possession any device designed to silence or muffle the discharge of a firearm; or,
- G. Permit, as a parent or guardian, any child under fourteen years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or,

Ho Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of the minor's parent or guardian or of the Police Department.

1005.02 Exception. Nothing in 1005.01 of this Section shall prohibit the possession of the articles mentioned if the purpose of the possession is for public exhibition by museums or collectors of art.

1005.03 Discharge of Firearms and Explosives. It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a BB gun.

1005.04 Exception. Nothing in 1005.03 of this Section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of the officer's duty, or to a person in the lawful defense of the person or family. This Section shall not apply to the discharge of firearms authorized in writing by the Council.

1005.05 Possession and Sale of Fireworks. It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in 1005.04 of this Section, any firecrackers, sky rockets or other fireworks.

1005.06 Exposure of Unused Container. It is unlawful for any person to permit an unused refrigerator, ice box, or other container which is sufficiently large to retain any child, and which has doors that fasten automatically when closed, and to be exposed and accessible to children, without removing the doors, lids, hinges or latches.

1005.07 Use of Bow and Arrow. It is unlawful for any person to shoot a bow and arrow except in the physical education program in a school supervised by a member of its faculty, in a community-wide supervised class, at an event specifically authorized by the Chief of Police, or at a bow and arrow range authorized by the Council.

1010.01 Definitions. As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

Subd. 1 Animal. “Animal” shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

A. Domestic. “Domestic animals” shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

B. Non-Domestic. “Non-Domestic animals” shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(1) Any member of the large cat family (family Felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(2) Any naturally wild member of the canine family (family Canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined as domesticated pets.

(5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

C. "Farm animals" shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys-though no roosters), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, rabbits, buffalo, bison, elk, llamas, ostrich, quail, pheasant, bees, and other animals associated with a farm, ranch, or stable as well as used for commercial agricultural purposes.

D. Animal Unit Equivalent. For the purposes of this Section, "One Animal Unit Equivalent" is herein defined using the unit equivalent spreadsheet. The following is also defined as one Animal Unit Equivalent: one elk, one bison, two llamas, two ostrich, or twenty-five rabbits. Animal Unit Equivalents not included in the schedule or in this definition shall be calculated as follows: average weight of species divided by 1000 lbs. = the Animal Unit Equivalent. Any disputes concerning the calculation of an Animal Unit Equivalent shall be resolved by the City Council. Animal Unit Equivalents are set out in Section 1010.21.

E. Animal Feedlot: a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

F. Pasture: areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices. Those areas of supplemental feeding or watering devices within a pasture do not constitute a feedlot.

Subd. 2 Cat. "Cat" shall be intended to mean both the male and female of the Felidae species commonly accepted as domesticated household pets.

Subd. 3 Dog. "Dog" shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

Subd. 4 Owner. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

Subd. 5 At Large. "At Large" shall be intended to mean off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

Subd. 6 Release Permit. "Release Permit" shall mean a permit issued by the Le Sueur County Sheriff's Department for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of the release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established from time to time by resolution of the City Council, but not less than \$50.00.

Subd. 7 Enforcement Officer. The Heidelberg City Clerk is hereby designated as the Animal Control Officer for the City and shall enforce the provisions of this Section. The Heidelberg City Clerk may delegate enforcement powers to the Le Sueur County Sheriff's Department.

Subd. 8 Peace Officer. Shall mean any Le Sueur County Sheriff or Sheriff's Deputy.

1010.02 Dogs and Cats.

Subd. 1 Running at Large Prohibited. It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to run at large. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading "Dogs or Cats Prohibited".

Subd. 2 Vaccination.

A. All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for:

1. Rabies-with a live modified vaccine; and
2. Distemper

B. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk or the Clerk's designee, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk, or the City Clerk's designee. Failure to do so shall be deemed a violation of this Section.

Subd. 3 Cats. Cats shall be included as controlled by this sub-section insofar as running-at-large, pickup, impounding, boarding, and proof of anti-rabies vaccine is concerned. All other provisions of this Section shall also apply to cats unless otherwise provided.

1010.03 Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such an animal at the time of adoption of this Code shall have thirty days in which to remove the animal from the City after which time the City may impound the animal as provided for in this Section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

1010.04 Farm Animals. Farm animals shall be kept only if permitted under City Code. An exception shall be made to this subsection for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a Council approved show or exhibition.

1010.05 Impounding.

Subd. 1 Running at Large. Any animal running at large is hereby declared a public nuisance. Any peace officer may impound any dog or other animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the peace officer shall post notice at the City Hall that if the dog or other animal is not claimed within the time specified in Subd. 3, it will be sold or otherwise disposed of. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

Subd. 2 Biting Animals. Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the City Pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the County in which this City is located, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

Subd. 3 Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under Section 1010.12 in which case it shall be kept for seven regular business days or the times specified in Section 1010.12, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this Section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

- A. Payment of a \$50.00 release fee and receipt of a release permit from the police;
- B. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound; and
- C. Providing a valid certificate of vaccination for rabies and distemper shots is required.

Subd. 4 Unclaimed Animals. At the expiration of the times established in Subdivision 3, if the animal has not been reclaimed in accordance with the provisions of this Section, the peace officer appointed to enforce this Section may let any person claim the animal by complying with all provisions in this Section, or cause the animal to be destroyed in accordance with the provisions of this Section. Any money collected under this Section shall be payable to the City general revenue fund.

1010.06 Kennels.

Subd. 1 Definition of Commercial Kennel. The keeping of more than three cats and three dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “commercial kennel”; except that a fresh litter of pups or kittens may be kept for a period of four months before such keeping shall be deemed to be a “commercial kennel.”

Subd. 2 Commercial Kennel as a Nuisance. Because the keeping of more than three cats and three dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of more than three cats and three dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a commercial kennel within the City.

1010.07 Ownership Limits.

Subd. 1 No person shall keep, maintain, or otherwise house more than a total of six domestic animals over the age of four months, excepting therefrom caged birds and fish, within any household in the City of Heidelberg unless authorized elsewhere in this Chapter.

A. For the purposes of this Section, the term “household” refers to a single-family residence or single unit of a town home, condominium, apartment or comparable structure that is rented, leased or used as a single unit.

B. This Section shall not be construed to limit the ability of apartment managers, landlords, town home associations or other representatives of property owners to impose greater restrictions.

C. The maximum limit of six domestic animals (three cats and three dogs) refers to the total of all domestic animals regulated herein.

Subd. 2 Any person owning more than a total of three cats and three dogs prior to the effective date of this Ordinance shall be permitted to keep those domestic animals. No person affected by this Subdivision shall be permitted to acquire any additional cats or dogs to replace any cats or dogs in excess of the maximum limits set in this Section.

Subd. 3 Any person who owns cats or dogs and who becomes a resident of the City by annexation shall be permitted to keep those animals. No person affected by this Subdivision who owns more than a total of three cats and three dogs shall be permitted to acquire any additional cats or dogs to replace any cats or dogs in excess of three each.

1010.08 Nuisances.

Subd. 1 Habitual Barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises.

Subd. 2 Damage to Property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

Subd. 3 Cleaning Up Litter. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property. Any person violating this Section shall be punished with a fine of \$75.00.

Subd. 4 Other. Any animals kept contrary to this Section are subject to impoundment as provided in this Section.

1010.085 Trespasses. It is unlawful for any person to herd, drive or ride any farm animal or domesticated animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission from the owner. It is unlawful for any person to permit any farm animal or domesticated animal to go upon any grass, turf, boulevard, city park, cemetery, garden, or lot without the specific permission to do so from the owner of the property.

1010.09 Seizure of Animals. Any peace officer may enter upon private property and seize any animal provided that the following exist:

- A. There is an identified complainant other than the peace officer making a contemporaneous complaint about the animal;
- B. The peace officer reasonably believes that the animal meets the criteria for cruelty set out in Section 1010.14; or the criteria for an at-large animal set out in this Chapter;
- C. The peace officer can demonstrate that there has been inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
- D. The peace officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
- E. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
- F. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

1010.10 Animals Presenting a Danger to Health and Safety of City. If, in the reasonable belief of any person or peace officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the peace officer may destroy the animal in a proper and humane manner. Otherwise the person or peace officer may apprehend the animal and deliver it to the pound for confinement under Section 1010.05. If the animal is

destroyed, a charge of \$175.00 to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with Section 1010.05, Subd. 3.

1010.11 Diseased Animals.

Subd. 1 Running at Large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal be properly licensed under this Section.

Subd. 2 Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person or peace officer. The peace officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the peace officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be liable for all costs of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. 3 Release. If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

1010.12 Regulation of Potentially Dangerous and Dangerous Dogs.

Subd. 1 Minnesota Statutes Sections 347.50-347.56, as Amended from Time to Time, are Incorporated by Reference. Minnesota Statutes Sections 347.50-347.56, as those statutes may be amended from time to time, are hereby adopted and incorporated by reference into the Heidelberg City Code.

Subd. 2 Notice and Required Compliance with Notice. The Le Sueur County Sheriff's Department has the authority to declare a dog potentially dangerous, or dangerous, pursuant to the authority granted the City by Minnesota Statutes Sections 347.50-347.56, as these statutes are amended from time to time. The City of Heidelberg shall give notice to the owner of a dog declared potentially dangerous

or dangerous by delivering or mailing said notice to the owner of the dog, or by posting a copy of the notice at a place where the dog is kept, or by delivering the notice to a person residing on the property. The notice must include the name of the dog or, if the name of the dog is not known, a description of the dog, a general factual basis as to why the specific dog has been designated potentially dangerous or dangerous, and the notice must set out in detail what action the dog's owner must take within the 14-day notice period to comply with the requirements of this Chapter. The 14-day notice period, in the event the notice is served personally or by posting, shall exclude the date of service or the first day the notice is posted. In the event the notice is mailed to the owner, 3 calendar days shall be added to the 14-day required compliance period. It is a misdemeanor offense for a dog owner to fail to timely comply with all requirements set out in the notice. The misdemeanor penalties for violation of this subdivision are set out in Heidelberg Code Sections 1060.01 and 1060.03.

Subd. 3 Proper Enclosure. Proper enclosure means securely confined indoors or in a securely locked outdoor pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal 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 barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet all of the following minimum specifications:

- A. Have a minimum overall floor size of thirty-two (32) square feet.
- B. Sidewalls shall have a minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two (2) inches, support posts shall be one-and-one-quarter-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.
- C. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two (2) inches.
- D. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

E. The pen or kennel must be located in the animal owner's backyard and be at least five (5) feet from any property line.

Subd. 4 Unprovoked. Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

1010.13 Dangerous Animal Requirements.

Subd. 1 Requirements. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Section 1010.12, Subd. 2;

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statutes Sections 347.50-347.56;

(3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000.00;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person sixteen years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration; and,

(5) Any or all additional requirements permitted under Minnesota Statutes Sections 347.50-347.56.

Subd. 2 Seizure. The Le Sueur County Sheriff's Department shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the City and filing it with the district court.

Subd. 3 Reclaiming animals. A dangerous animal seized under Subsection 1010.13, Subd. 2, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to animal control that each of the requirements under Subsection 1010.13, Subd. 1, is fulfilled. An animal not reclaimed under this Section within fourteen days may be disposed of as provided under Section 1010.12 and the owner is liable to the City of Heidelberg for all costs incurred in confining the animal and having the animal destroyed including, but not limited to, reimbursement of all of the City's legal fees and court costs.

Subd. 4 Subsequent offenses. If an owner of an animal has subsequently violated the provisions under Section 1010.12 with the same animal, the animal must be seized by the Le Sueur County Sheriff's Department. The owner may request a hearing as provided for in Section 1010.12. If the owner is found to have violated the provisions for which the animal was seized, the City Clerk shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Subsection 1010.13, Subd. 3. If the animal is not yet reclaimed by the owner within fourteen days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under Subsection 1010.12 and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

1010.14 Basic Care. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this Section.

1010.15 Breeding Moratorium. Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another dog or cat except for planning breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

1010.16 Pound. Every year the Council shall designate an official pound to which animals found in violation of this Section shall be taken for safe treatment, and if necessary, for destruction.

1010.17 Interference with Peace Officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs, cats or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Section, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Section.

1010.18 Treatment. It is unlawful for any person to treat an animal in a cruel or inhumane manner.

1010.19 Housing. It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.

1010.20 Summary Destruction of Certain Animals. Whenever a peace officer has reasonable cause to believe that a particular animal presents a clear and immediate danger to residents of the City because it is infected with rabies (hydrophobia) or because of a clearly demonstrated vicious nature, the peace officer, after making reasonable attempts to impound such animal, may summarily destroy the animal.

1010.21 Animal Unit Equivalent. Any person keeping a farm animal or non-traditional farm animal within the City of Heidelberg must adhere to the following requirements at a minimum:

1. Properties of less than 3 acres, but at least one-half acre, are allowed to have .5 Animal Unit Equivalent per acre, as calculated to the nearest one-tenth acre:

.5 acre	.25	AUE
.6 acre	.3	AUE
.7 acre	.35	AUE

.8 acre	.4	AUE
.9 acre	.45	AUE
1.0 acres	.5	AUE
1.1 acres	.55	AUE
1.2 acres	.6	AUE
1.3 acres	.65	AUE
1.4 acres	.7	AUE
1.5 acres	.75	AUE
1.6 acres	.8	AUE
1.7 acres	.85	AUE
1.8 acres	.9	AUE
1.9 acres	.95	AUE
2.0 acres	1.0	AUE
2.1 acres	1.05	AUE
2.2 acres	1.1	AUE
2.3 acres	1.15	AUE
2.4 acres	1.2	AUE
2.5 acres	1.25	AUE
2.6-2.9 acres	1.5	AUE
3.0 acres	2.0	AUE

2. Minimum of 2 acres is required to allow one full Animal Unit Equivalent to be kept

3. For each additional whole acre over 3 acres, one additional Animal Unit Equivalent is permitted. Partial acres on parcels greater than three acres do not increase the available Animal Unit Equivalents. A cap of 28 Animal Unit Equivalents shall be placed on parcels greater than 30 acres unless a conditional use permit is obtained.
4. For the purpose of calculating acreage under this Section, adjoining parcels under the same ownership shall be considered one parcel if actually used together for the keeping of the Animal Unit Equivalents.
5. For the purpose of calculating acreage under this Section, adjoining parcels not under the same ownership may be combined if:
 - a. The adjoining property owner agrees to allow his/her property to be used for this purpose;
 - b. The agreement is in writing and contains the following:
 - i. Names of both landowners and the addresses and legal descriptions of their respective properties;
 - ii. A statement indicating the amount of acreage the adjoining property owner is allowing the animal owner to utilize for this purpose;
 - iii. A statement indicating the duration of the agreement;
 - iv. An acknowledgement by the adjoining property owner that the agreement reduces the available Animal Unit Equivalent, if any, on his/her property for the duration of the agreement; and
 - v. The signatures of all property owners of record and for all parcels involved.
 - c. The agreement shall be filed with the City Clerk.
6. All animals must be kept in an enclosed pen or corral with fences or enclosures of sufficient size, height and strength to ensure safe and humane retention of animals.
7. In addition to the pen required in number 6, a shelter or stabling facility shall be provided at least 100 square feet per animal unit. The shelter or facility shall be at least 75 feet from any residential structure of another person and must comply with all setback requirements as Accessory Buildings of the Zoning Code.

8. Manure, bedding compost and other waste materials must not be piled or allowed to accumulate closer than 75 feet from any lot line and 140 feet from neighboring residences. On parcels less than 3 acres, such materials shall be removed from the premises at least once within a six (6) month period, unless the materials are accumulated within 140 feet from a property line, in which case they must be removed every 14 days.

9. Feedlots are not permitted within City limits. Requirements 1-8 in this Section must be met.

10. The animal unit equivalent schedule set out below is incorporated into and made part of this Section of the City Code.

ANIMAL UNITS

1 UNIT WITH 2 ACRES AND 1 ADDITIONAL UNIT FOR EACH 1 ACRE

After 30 acres it is considered “true farming” and a conditional use permit is required for any additional animals

Type of Animal	Unit Equivalent	Acres 3-3.9	Acres 4-4.9	Acres 5-5.9	Acres 6-6.9	Acres 7-7.9	Acres 8-8.9	Acres 9-9.9	Acres 10-10.9	Acres 11-11.9
		AU 2	AU 3	AU 4	AU 5	AU 6	AU 7	AU 8	AU 9	AU 10
Dairy Cattle										
Cow Over 1000#	1.4	1.4	2.1	2.9	3.6	4.3	5.0	5.7	6.4	7.1
Cow Under 1000#	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0
1 Heifer	.07	2.9	4.3	5.7	7.1	8.6	10.0	11.4	12.9	14.3
1 Calf	.02	10.0	15.0	20.0	25.0	30.0	35.0	40.0	45.0	50.0
Beef Cattle										
1 Slaughter or Stock	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0
1 Feeder or Heifer	0.7	2.9	4.3	5.7	7.1	8.6	10.0	11.4	12.9	14.3
1 Cow & 1 Calf Pair	1.2	1.7	2.5	3.3	4.2	5.0	5.8	6.7	7.5	8.3
1 Calf	0.2	10.0	15.0	20.0	25.0	30.0	35.0	40.0	45.0	50.0
Swine										
Over 300#	0.4	5.0	7.5	10.0	12.5	15.0	17.5	20.0	22.5	25.0
55# - 300#	0.3	6.7	10.0	13.3	16.7	20.0	23.3	26.7	30.0	33.3
Under 55#	0.05	40.0	60.0	80.0	100.0	120.0	140.0	160.0	180.0	200.0
1 Horse										
1 Horse	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0
1 Sheep or Lamb										
1 Sheep or Lamb	0.1	20.0	30.0	40.0	50.0	60.0	70.0	80.0	90.0	100.0
Chickens										
Chickens	0.033	60.6	90.9	121.2	151.5	181.8	212.1	242.4	272.7	303.0
Rabbits										
Rabbits	0.033	60.6	90.9	121.2	151.5	181.8	212.1	242.4	272.7	303.0
Turkeys										
Over 5#	0.018	111.1	166.7	222.2	227.8	333.3	388.9	444.4	500.0	555.6
Under 5#	0.005	400.0	600.0	800.0	1000.0	1200.0	1400.0	1600.0	1800.0	2000.0
Ducks										
Ducks	0.01	200.0	300.0	400.0	500.0	600.0	700.0	800.0	900.0	1000.0
Llamas										
Llamas	0.5	4.0	6.0	8.0	10.0	12.0	14.0	16.0	18.0	20.0
Alpacas										
Alpacas	0.3	6.6	10.0	13.3	16.6	20.0	23.3	26.6	30.0	33.3
Buffalo										
Buffalo	1.4	1.4	2.0	2.9	3.6	4.3	5.0	5.7	6.4	7.1
Ostrich										
Ostrich	.35	5.7	8.5	11.4	14.2	17.4	20	22.8	25.7	28.5
Elk										
Elk	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0

Type of Animal	Unit Equivalent	Acres 12-12.9	Acres 13-13.9	Acres 14-14.9	Acres 15-15.9	Acres 16-16.9	Acres 17-17.9	Acres 18-18.9	Acres 19-19.9
		AU 11	AU 12	AU 13	AU 14	AU 15	AU 16	AU 17	AU 18
Dairy Cattle									
Cow Over 1000#	1.4	7.9	8.6	9.3	10.0	10.7	11.4	12.1	12.9
Cow Under 1000 #	1.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0
1 Heifer	.07	15.7	17.1	18.6	20.0	21.4	22.9	24.3	25.7
1 Calf	.02	55.0	60.0	65.0	70.0	75.0	80.0	85.0	90.0
Beef Cattle									
1 Slaughter or Stock	1.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0
1 Feeder or Heifer	0.7	15.7	17.1	18.6	20.0	21.4	22.9	24.3	25.7
1 Cow & Calf Pair	1.2	9.2	10.0	10.8	11.7	12.5	13.3	14.2	15.0
1 Calf	0.2	55.0	60.0	65.0	70.0	75.0	80.0	85.0	90.0
Swine									
Over 300#	0.4	27.5	30.0	32.5	35.0	37.5	40.0	42.5	45.0
55# - 300#	0.3	36.7	40.0	43.3	46.7	50.0	53.3	56.7	60.0
Under 55#	0.05	220.0	240.0	260.0	280.0	300.0	320.0	340.0	360.0
Horses									
1 Horse	1.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0
Sheep or Lamb									
1 Sheep or Lamb	0.1	110.0	120.0	130.0	140.0	150.0	160.0	170.0	180.0
Chickens									
Chickens	0.033	333.3	363.6	393.9	424.2	454.5	484.8	515.2	545.5
Rabbits									
Rabbits	0.033	333.3	363.6	393.9	424.2	454.5	484.8	515.2	545.5
Turkeys									
Over 5#	0.018	611.1	666.7	722.2	777.8	833.3	888.9	944.4	1000.0
Under 5#	0.005	2200.0	2400.0	2600.0	2800.0	3000.0	3200.0	2400.0	3600.0
Ducks									
Ducks	0.01	1100.0	1200.0	1300.0	1400.0	1500.0	1600.0	1700.0	1800.0
Llamas									
Llamas	0.5	22.0	24.0	26.0	28.0	30.0	32.0	34.0	36.0
Alpacas									
Alpacas	0.3	36.6	40.0	43.3	46.6	50.0	53.3	56.6	60.0
Buffalo									
Buffalo	1.4	7.9	8.6	9.3	10.0	10.7	11.4	12.1	12.9
Ostrich									
Ostrich	.35	31.4	34.2	37.1	40	42.8	45.7	48.5	51.4
Elk									
Elk	1.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0

Type of Animal	Unit Equivalent	Acres 20-20.9	Acres 21-21.9	Acres 22-22.9	Acres 23-23.9	Acres 24-24.9	Acres 25-25.9	Acres 26-26.9	Acres 27-27.9
		AU 19	AU 20	AU 21	AU 22	AU 23	AU 24	AU 25	AU 26
Dairy Cattle									
Cow Over 1000#	1.4	13.6	14.3	15.0	15.7	16.4	17.1	17.9	18.6
Cow Under 1000 #	1.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0
1 Heifer	.07	27.1	28.6	30.0	31.4	32.9	34.3	35.7	37.1
1 Calf	.02	95.0	100.0	105.0	110.0	115.0	120.0	125.0	130.0
Beef Cattle									
1 Slaughter or Stock	1.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0
1 Feeder or Heifer	0.7	27.1	28.6	30.0	31.4	32.9	34.3	35.7	37.1
1 Cow & Calf Pair	1.2	15.8	16.7	17.5	18.3	19.2	20.0	20.8	21.7
1 Calf	0.2	95.0	100.0	105.0	110.0	115.0	120.0	125.0	130.0
Swine									
Over 300#	0.4	47.5	50.0	52.5	55.0	57.5	60.0	62.5	65.0
55# - 300#	0.3	63.3	66.7	70.0	73.3	76.7	80.0	86.7	90.0
Under 55#	0.05	380.0	400.0	420.0	440.0	460.0	480.0	520.0	540.0
1 Horse	1.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0
1 Sheep or Lamb	0.1	190.0	200.0	210.0	220.0	230.0	240.0	250.0	260.0
Chickens	0.033	575.8	606.1	636.4	666.7	697.0	727.3	757.6	787.9
Rabbits	0.033	575.8	606.0	636.4	666.7	697.0	727.3	757.6	787.9
Turkeys									
Over 5#	0.018	1055.6	111.1	1166.7	1222.2	1277.8	1333.3	1388.9	1444.4
Under 5#	0.005	3800.0	4000.0	4200.0	4400.0	4600.0	4800.0	5000.0	5200.0
Ducks	0.01	1900.0	2000.0	2100.0	2200.0	2300.0	2400.0	2500.0	2600.0
Llamas	0.5	38.0	40.0	42.0	44.0	46.0	48.0	50.0	52.0
Alpacas	0.3	63.3	66.6	70.0	73.3	76.6	80.0	83.3	86.6
Buffalo	1.4	13.6	14.3	15.0	15.7	16.4	17.1	17.9	18.6
Ostrich	.35	54.2	57.1	60	62.8	65.7	68.5	71.4	74.2
Elk	1.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0

Type of Animal	Unit Equivalent	Acres 28-28.9	Acres 29-29.9
		AU 27	AU 28
Dairy Cattle			
Cow Over 1000#	1.4	19.3	20.0
Cow Under 1000 #	1.0	27.0	28.0
1 Heifer	.07	38.6	40.0
1 Calf	.02	135.0	140.0
Beef Cattle			
1 Slaughter or Stock	1.0	27.0	28.0
1 Feeder or Heifer	0.7	38.6	40.0
1 Cow & Calf Pair	1.2	22.5	23.3
1 Calf	0.2	135.0	140.0
Swine			
Over 300#	0.4	67.5	70.0
55# - 300#	0.3	90.0	93.3
Under 55#	0.05	540.0	560.0
1 Horse	1.0	27.0	28.0
1 Sheep or Lamb	0.1	270.0	280.0
Chickens	0.033	818.2	848.5
Rabbits	0.033	818.2	848.5
Turkeys			
Over 5#	0.018	1500.0	1555.6
Under 5#	0.005	5400.0	5600.0
Ducks	0.01	2700.0	2800.0
Llamas	0.5	54.0	56.0
Alpacas	0.3	90.0	93.3
Buffalo	1.4	19.3	20.0
15.0015.7s16.4trich	.35	77.1	80
Elk	1.0	27.0	28.0

After 30 acres it is considered “true farming” and a conditional use permit is required for any additional animals.

11. How to calculate the number of animals allowed on your property.

I. Start by determining the Animal Units Allowed based on your property size in the table located in this Section. If your property is less than 3 acres, use the table located in Section 1010.21(1).;

II. In the same table determine type of animal and its Unit Equivalent. (Example: a chicken has a unit equivalent of .033);

III. Complete calculation by: Animal Units Allowed divided by Unit Equivalent Equals the number of animals allowed (always round down to a whole number)

IV. Example: I would like to have chickens; my property size is 1.7 acres.

V. Per the table in Section 1010.21(1), a total of .85 animal units are allowed. A chicken's unit equivalent is .033.

VI. $.85 \text{ divided by } .033 = 25.75$ (rounded down) A total of 25 chickens would be allowed.

Must have a minimum of $\frac{1}{2}$ acre to have any farm animal

1010.22 Bees.

Subd. 1 Definitions. As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

A. "Apiary" means the assembly of one or more colonies of bees at a single location.

B. "Beekeeper" means a person who owns or has charge of one or more colonies of bees.

C. "Beekeeping Equipment" means anything used in the operations of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

D. "Colony" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

E. "Hive" means the receptacle inhabited by a colony that is manufactured for that purpose.

F. "Honey Bee" means all life stages of the common domestic honey bee, *apis mellifera* species.

G. "Lot" means a contiguous parcel of land under common ownership.

H. "Nucleus Colony" means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.

I. "Undeveloped Property" means any idle land that is not improved or is actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The

term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

Subd. 2 Purpose.

A. The purpose of this Section is to establish certain requirements for beekeeping within the City, to avoid issues which might otherwise be associated with beekeeping in populated areas.

B. Compliance with this Section shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any proven nuisance.

C. Compliance with this Section shall not be a defense to a proceeding alleging that a given colony violates applicable Sections regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

Subd. 3 Standards of practice.

A. Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.

B. Each beekeeper shall ensure that a convenient source of water is available to the colony so long as colonies remain active outside of the hive.

C. Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers or placed within a building or other insect proof container.

D. For each colony permitted to be maintained under this Section, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard 9-5/8-inches depth 10-frame hive body with no supers.

E. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall not be a defense to this Section that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

Subd. 4 Colony Density.

A. Except as otherwise provided in this Section, in each instance where a colony is kept less than 25 feet from a property line of the lot upon which the apiary is located,

as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least 6 feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that bees will fly over rather than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be 4 feet in height, so long as the vegetation normally reaches 6 feet in height or higher. The flyway barrier must continue parallel to the apiary lot line for 10 feet in either direction from the hive is, contain the hive or hives in an enclosure at least 6 feet in height. A flyway barrier is not required if the property adjoining the apiary lot line, (1) is undeveloped, or (2) is zoned agricultural, industrial or is outside of the City limits, or (3) is a wildlife management area or naturalistic park land with no horse or foot trails located within 25 feet of the apiary lot line.

B. No person is permitted to keep more than the following numbers of colonies on any lot within the City, based upon the size or configuration of the apiary lot:

- | | |
|---|----------------|
| a. One half acre or smaller lot | 2 colonies |
| b. Larger than ½ acre but smaller than ¾ acre lot | 4 colonies |
| c. Larger than ¾-acre lot but smaller than 1-acre lot | 6 colonies |
| d. One acre but smaller than 5 acres | 8 colonies |
| e. Larger than 5 acres | no restriction |

C. Regardless of lot size, so long as all lots within a radius of at least 200 feet from any hive, measured from any point on the front of the hive, remain undeveloped, there shall be no limit to the number of colonies. No grandfathering rights shall accrue under this Subsection.

D. If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation the portion of this Section limiting the number of colonies if he temporarily houses the swarm on the apiary lot in compliance with the standards of practice set out in this Section for no more than 30 days from the date acquired.

Subd. 5. Inspection. A designated City official shall have the right to inspect any apiary for the purpose of ensuring compliance with this Section between 8 a.m. and 5 p.m. once annually upon prior notice to the owner of the apiary property, and more often upon complaint without prior notice.

Subd. 6 Presumed Colony/Hive Value. For the prose of enforcing City Code against destruction of property, each colony/hive shall be presumed to have a value of \$350.00.

Subd. 7 Compliance.

A. Upon receipt of credible information that any colony located within the City is not being kept in compliance with this Section, the designated City official shall cause an investigation to be conducted. If the investigation shows that a violation

may exist and will continue, the designated City official shall cause a written notice of hearing to be issued to the beekeeper, which notice shall set forth:

- a. The date, the time and the place that the hearing will be held, which date shall not be less than 30 days from the date of the notice;
- b. The violation alleged;
- c. That the beekeeper may appear in person or through counsel, present evidence, cross-examine witnesses and request a court reporter, and
- d. That if the designated City official finds that they have been kept in violation of this Section, and if the violation is not remediated within the time allowed, the bees may be ordered removed and/or destroyed.

Notices shall be given by certified U.S. Mail return receipt requested or personal delivery. However, if the beekeeper cannot be located, then notice may be given by publication in a legal newspaper for the county in which the apiary property is located, at least seven days before the hearing.

B. The hearing shall be conducted by the designated City official. The burden shall be on the City to demonstrate by a preponderance of evidence that the colony or colonies have been kept in violation of this Section. If the designated City official finds a violation, then he/she may order that the bees be removed from the City or such other action as may address the violation, and that the apiary lot be disqualified for permitting under this Section for a period of 2 years from the date of the order, the apiary lot ownership changes, in which case the prohibition shall terminate. If the order has not been complied with within 20 days of the order, the City may remove or destroy the bees and charge the beekeeper with the cost thereof. Upon destruction of bees by the City, all equipment shall be returned by the City to the beekeeper, with expenses of transportation to be paid by the beekeeper. The City's destruction of the bees shall be by a method that will not damage or contaminate the equipment, include wax foundation.

C. The decision of the hearing officer may be appealed by the beekeeper as provided in the City's rules and procedures. If no provision for appeal exists, then the beekeeper may file a notice of appeal with the City secretary within 15 days of the date the order is placed in U.S. Mail to the beekeeper, or 10 days if the decision is announced at the hearing by the designated City official. An appeal shall not stay the designated City official's decision, and the beekeeper shall be required to comply with such order pending the outcome of the appeal.

D. No hearing and no order shall be required for the destruction of honey bees not residing in a hive structure that is intended for beekeeping.

Subd. 8 Savings Clause. In the event any part of this Section or its application to any person or property is held to be unenforceable for any reason, the unenforceability thereof will not affect the enforceability and application of the remainder of this Section, which will remain in full force and effect.

Section 1025 – UNLAWFUL USE AND FURNISHING OF TOBACCO

1025.01 Minors. It is unlawful for any person, under the age of eighteen (18) years, to use tobacco in any form.

1025.02 Minors. It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of eighteen (18) years.

Section 1030 - DANGEROUS TRESPASSES AND OTHER ACTS

1030.01 Dangerous Trespasses and Other Acts. It is unlawful for any person to:

- (1) smoke in the presence of explosives or inflammable materials, or in a building or area in which "No Smoking" notices have been prominently posted;
- (2) interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire;
- (3) show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track or navigable water;
- (4) place an obstruction upon a railroad track;
- (5) expose another or another's property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce;
- (6) trespass or permit animals under the person's control to trespass upon a railroad track;
- (7) permit domestic animals or fowls under the person's control to go upon the lands of another within the City;
- (8) interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land;
- (9) trespass upon the premises of another, and without claim of right refuses to leave the premises on demand of the lawful possessor;
- (10) occupy or enter the dwelling of another, without claim of right or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation;
- (11) enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing on the property without the permission of the owner or occupant; or
- (12) without the permission of the owner, tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

1030.02 Trespasses in Public Buildings.

Subd. 1 Public Buildings Defined. The term "public buildings" means structures or areas owned and operated by any governmental unit for the conduct of governmental functions including but not limited to: public and private schools, libraries, parks, playgrounds, City administrative offices, garages and fire halls, waste treatment plants, pump houses, federal financing housing projects.

Subd. 2 Unlawful Acts.

A. It is unlawful for any person to remain in a public building or upon the grounds of the building after being requested to leave the premises by persons lawfully responsible for the control and maintenance of the building, when the continued presence of any person shall injure or endanger the safety of the buildings or property, or unreasonably interfere with the administration of the premises.

B. It is unlawful for any person, whether on or off the premises or grounds of any public building, to wrongfully harass, disrupt, disturb, interfere with or obstruct any public or governmental business or function being conducted within or upon the premises or grounds of any public buildings.

1030.03 Disorderly Conduct. It is unlawful for any person, in a public or private place, knowing or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb reasonable persons or provoke any assault or breach of the peace, to do or permit upon premises owned or controlled by the person the following:

- (1) engage in brawling or fighting;
- (2) disturb an assembly or meeting, not unlawful in its character;
- (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others;
- (4) willfully and lewdly expose the person or the person's private parts, or procure another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;
- (5) voluntarily enter the water of any lake, river or City public swimming pool between the hours of 10:00 0'clock p.m. and 8:00 0'clock a.m. except with specific permission; or enter such water without being dressed in a bathing suit sufficient to cover the person and equal to the standards generally adopted and accepted by the public;
- (6) race the motor of any motor vehicle;

- (7) cause the making or production of an unnecessary noise by shouting, or by any other means of mechanism including the blowing of any automobile or other vehicle horn;
- (8) use a sound amplifier upon streets and public property without prior written permission from the City;
- (9) use a flash or spotlight in a manner so as to annoy or endanger others;
- (10) drink or display any intoxicating liquor or non-intoxicating malt liquor in or about any premises where such drinking or display is prohibited by law;
- (11) cause defacement, destruction or otherwise damage to any premises or any property located on the premises;
- (12) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage or rubbish unto any premises except into receptacles provided for such purposes;
- (13) enter any motor vehicle of another without the consent of the owner or operator; or
- (14) fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner or person in charge of the premises, or by any law enforcement agent or official. However, this provision shall not apply to any person who is the owner or tenant of the premises involved; nor to any law enforcement or other government official who may be present at that time as part of an official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

Section 1040 - OPEN BURNING

1040.01 Adoption by Reference of Minnesota Statutes. Except as herein specifically addressed or modified, the following provisions of state law are hereby adopted by reference: Minnesota Statutes Section 88.01 to 88.195.

1040.02 Definitions.

Subd. 1 Building Material: Lumber, wood shakes and other wood products, but shall not include composite shingles, tar paper, insulation, wall board, wiring or other similar smoke producing materials.

Subd. 2 Campfire: A fire set for cooking, warming or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material.

Subd. 3 Cooking Fire: A fire contained in charcoal grill, camp stove or other device designed for the purpose of cooking.

Subd. 4 Demolition Debris: Burnable building material generated from demolition of buildings or structures.

Subd. 5 Garbage: Discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

Subd. 6 Hazardous Waste: No person shall conduct, cause, or permit open burning of hazardous waste as defined in Section 116.05, Subdivision 1 1, and applicable commissioners' rules.

Subd. 7 Heating Devices: Furnaces or other devices which burn fuel oil, coal, natural gas, propane, and wood or used petroleum products, and which conform to all local, state and federal environmental and safety regulations, intended to provide heat.

Subd. 8 Open Burning: Open burning is the burning of any matter which is not contained within a fully enclosed firebox or container, and whereby the resulting combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney.

Subd. 9 Prohibited Materials: Rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, paint filters and oil.

Subd. 10 Rubbish: Non-putrescible solid waste, such as paper, cardboard, yard clippings and other natural matter not included in garbage.

Subd. 11 Solid Waste: Garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

Subd. 12 Wildfires: A fire requiring suppression action, burning any forest, brush, grassland, cropland, or any other vegetative material.

1040.03 Restrictions on Burning. No person shall cause, allow or permit open burning of any prohibited materials, hazardous wastes, solid wastes, demolition debris, motor vehicles, building materials, garbage, or rubbish within the City limits of the City of Heidelberg.

1040.04 Exceptions. Open burning is allowed for the following exceptions only.

Subd. 1 Open fires started when the ground is snow covered. The ground is considered snow covered when the snow is at least three inches deep and is unbroken surrounding the fire for an area sufficient to keep the fire from spreading.

Subd. 2 Campfires. A campfire is a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and the ground surrounding the fire has been cleared of all combustible material for five feet from the base of the fire.

Subd. 3 Fires contained in charcoal grills, camp stoves, or other devices designed for the purpose of cooking or heating.

Subd. 4 When the ground is not snow covered, fires to burn dried vegetative materials and other materials allowed by law in a burner of a design, which has been approved by the commissioner. There can be no combustible materials within five feet of the base of the burner and the burner can only be used during the hours of 6:00 p.m. to 8:00 a.m. When the ground is snow covered these materials could be burned at any time without a permit based on Section 1040.04, Subd. 1 above.

Exemption to conduct fires under this Section does not excuse a person from the consequences, damages or injuries which may result therefrom, nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, or any other governmental unit exercising jurisdictions in matters of pollution or fire hazard regulations.

1040.05 Permits. The Heidelberg City Clerk and the Le Sueur County Sheriff's Department shall be responsible to issue burning permits. No permit for a fire issued by any person or agency other than the Heidelberg City Clerk, or the Le Sueur County Sheriff, shall be valid.

Subd. 1 Permit Forms and Fees. The City Clerk shall prepare application and permit forms. Fees for fire permits may be set from time to time by resolution of the City Council, but where a particular fire will, in the discretion and judgment of the City Clerk, require supervision by Fire Department personnel, the standard rate of \$100.00 per hour will be charged to help defray the City's actual expense of such supervision.

Subd. 2 Length of Permit. A permit, once issued, shall be for such period of time as it is stated on the permit.

Subd. 3 Extension of Permit. The City Clerk may grant up to one extension of a permit, each for a time span not longer than the duration of the initial permit, without requiring an additional permit fee.

Subd. 4 Type of Permit. The permit must set the conditions for starting and burning the fire, and must also list all the materials, which may be burned under the permit.

Subd. 5 Permit Holder. The permittee must have the permit on his or her person at all times and must remain with the fire until it is completely extinguished. The permit must be given to a forest officer, fire warden or other peace officer when requested for inspection.

Subd. 6 Site of Permit. No person may start or cause a fire to be started on any land that is not owned by them or under their legal control without the written permission of the owner or lessee of the land, even if they have obtained a permit from the City Clerk or other authority.

Subd. 7 No person may start or cause a campfire/recreational fire, or do any open burning, even with a permit, during a period when a burning ban is in place. The burning ban may be set by the City Council, the Le Sueur County Sheriff's Department, or the Minnesota Department of Natural Resources.

Examples of permits required:

- A. Ground thawing for utility repair, underground utility construction and preparation of burial grounds.
- B. Bona-fide instruction and training of firefighting personnel and for the testing of fire extinguishing equipment.

- C. Fires set for the elimination of a fire hazard, which cannot be abated by another practicable means.
- D. The burning of trees, brush, grass and other vegetative matter.

1040.06 Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

1040.07 Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be sentenced to a fine and/or imprisonment in accordance with law.

Section 1050- RULES AND REGULATIONS ON PUBLIC AND PRIVATE
PROPERTY

1050.01 Blight.

Subd. 1 Blight or Blighting Factors. It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods, so as to be harmful to the public welfare, health and safety. It is unlawful for an owner of property located within the City of Heidelberg to permit blight to occur on that property. The following shall constitute blight in violation of this Section of the City Code:

A. Junk Automobiles are Blight. The storage of any junk automobiles on any property is considered blight. For the purposes of this Section of the City Code, the term "junk automobiles" shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open and (1) which is not currently licensed for use upon the highways of the State of Minnesota; or (2) unusable or inoperable because of lack of, or defects in component parts; or (3) unusable or inoperable because of damage from collision, deterioration, alteration or other factors; or (4) beyond repair and, therefore, not intended for future use as a motor vehicle; or (5) being retained on the property for possible use of salvageable pans. This Section shall not apply to vehicle storage associated with, but not limited to, vehicle repair shops, body repair shops, towing businesses, and motor fuel stations duly licensed by the City through the City Clerk's office.

B. The Storage or Accumulation of Junk Trash and Rubbish or Refuse of any Kind is Blight. Any junk, trash, rubbish, or refuse of any kind which is stored or accumulated for more than thirty (30) days shall constitute blight. The term "junk", as used in this subdivision, shall include any or all of the following: parts of machinery or motor vehicles; unused stoves or other appliances stored in the open; remnants of wood; decayed, weathered, or broken construction materials no longer suitable for sale; metal or other cast-off material of any kind. These items, any or all of them, are junk whether or not any or all of them could be put to any reasonable use.

C. Uninhabitable Structures are Blight. The existence of any structure, or part of any structure, which because of fire, wind, or other natural disaster, or due to physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it was originally intended, is blight. For the purposes of this Section, the term "structure" shall be defined in the same way as in Heidelberg City Ordinance Section 1 100.04.

D. Unsecured Vacant Dwellings, Garages and Other Buildings are Blight. Vacant dwellings, garages, and other buildings must be kept securely locked and the windows of those buildings kept glazed or neatly boarded up to prevent entry by vandals. Any dwelling, garage, or other building which does not comply with the requirements set out in the previous sentence shall constitute a blight.

E. Failure to Keep Grass and Weeds Mowed is Blight. It is blight for any owner, occupant or agent of any lot or parcel of land in the City to allow any weeds or grass growing upon such lot or parcel of land to grow to a greater height than 6", to allow such weeds to go to seed, or to allow grass thereon to go to seed.

F. Barbed Wire Fence is a Blight. It is blight for any person, except in the agricultural district, to erect or maintain a barbed wire fence upon the person's property, which fence abuts any street or within 10' of the property line with an abutting property owner. The only exception to this paragraph is the barbed wire fence currently located on the Louis Lokker property located within the City of Heidelberg. The subject fence may be maintained, repaired, and replaced in its current location. No additional barbed wire fencing shall be permitted anywhere within the City.

Subd. 2 Remedies Available to Cure Violations of City Ordinance 1050.01(1). Violations of City Ordinance 1050.01, Subdivision 1, shall be remedied by the City administratively or through criminal prosecution. These remedy options are not mutually exclusive, and the City may pursue both remedy options simultaneously against the owner of the premises on which the blight is located.

A. Blight Inspection and Investigation. The City Clerk's office shall be responsible for all blight inspection and investigation conducted within the City; however, the City Clerk may delegate the task of blight inspection to another department designated by the City Clerk. The City Clerk, or the City Clerk's designee, shall initially determine whether a blight condition exists within the City. Upon finding through inspection that a blight exists, the City Clerk, or the City Clerk's designee, shall prepare a detailed report which sets out the following: the facts surrounding the need for the inspection, the nature of the blight that is found to exist, and what the owner must do to cure the blight condition.

B. Blight Notice to Owner. The City Clerk's office, or its designee, upon finding blight within the City, shall send written notice of the finding of blight to the owner of the premises on which the blight is located. For the purposes of this Section the definition of "owner" shall mean any person who has a title interest recorded at the Le Sueur County Recorder's office in the premises upon which the blight is located. The written notice required

herein shall state the mailing address of the premises on which the blight is located, or, if no mailing address exists, a reasonable description of the location of the blight. The notice shall also set out the nature of the blight and what steps the owner must take to cure the blight. The notice must also state that the owner shall have 10 days from the date the notice is served upon the owner to cure the blight problem identified in the notice. The notice shall also set out the City's remedies in the event the owner fails to comply timely and fully with this cleanup notice. Service of the written notice required herein upon the owner shall be proper if it is made upon the owner personally, or by first class United States mail, or by certified mail. If service is accomplished personally or by first class United States mail then the City must prepare and keep an original affidavit of personal service or, in the appropriate case, an affidavit of service by mail. If service is accomplished by certified mail then the City shall retain as proof the original of the receipt of the certified letter, provided the City by the post office. The letter required herein shall be referred to throughout this ordinance as the owner's "cleanup notice".

C. Criminal Prosecution. Each blight violation of this Section shall constitute a misdemeanor offense. In addition, the defendant, upon conviction, shall be made responsible for reimbursing the City of Heidelberg for its cost of prosecution. The City of Heidelberg hereby adopts and incorporates herein the provisions of Minnesota Statutes Section 412.231. The criminal prosecution of violations of the Heidelberg Blight Ordinance shall be done by the City Attorney's office; or its designee in the case of a conflict of interest.

1050.02 Abandoning a Motor Vehicle. It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169.

1050.03 Consumption and Possession of Beer, Wine or Liquor on Streets and Public Property. It is unlawful for any person to consume, or possess in an unsealed container beer, wine or liquor, as those terms are defined in Chapter 5 of the City Code, on any street or other public property, except City parks and other public property when and where permission has been specifically granted or licensed by the Council. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of a 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.

1050.04 Consumption and Possession of Beer, Wine or Liquor on Private Parking Lots. It is unlawful for any person to consume or possess in an unsealed container beer, wine or liquor, as those terms are defined in Chapter 5 of the City Code, on any privately-owned parking lot which is clearly sign-posted prohibiting such possession and consumption. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle on privately owned parking lots when the container is kept in the trunk of such 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.

Section 1055 - OBSCENE MATERIAL

1.055.01 Furnishing Obscene Material.

Subd. I Definitions. As used in this Section, the following words and terms shall have the stated meanings:

- A. Furnish. To sell, give, rent, loan or otherwise provide.
- B. Material. Any printed matter, visual representation, or sound recording, and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.
- C. Obscene. The work, taken as a whole, appeals to the prurient interest in sex and depicts or describes in a patently offensive manner sexual conduct and which, taken as a whole, does not have serious literary, artistic, political, or scientific value. In order to determine that a work is obscene, the trier of fact must find:
 - (1) that the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest in sex;
 - (2) that the work depicts sexual conduct specifically defined by Subd. B in a patently offensive manner; and
 - (3) that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Subd. 2 Sexual Conduct. The term sexual conduct has the following meanings:

- A. 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;
- B. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed or who is nude.
- C. Masturbation, excretory functions, or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.

D. 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 the 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.

(1) Community. The political subdivision from which persons properly qualified to serve as jurors in a criminal proceeding are chose.

(2) Work. Work means "material" or "performance".

(3) Material. A book magazine, pamphlet, paper, writing, card, advertisement, circular, print, picture, photograph, motion picture film, videotape, script, image, instrument, statue, drawing, or other article.

(4) Performance. A play, motion picture, dance, or other exhibition performed before an audience.

Subd. .3 Unlawful Act. It is unlawful for any person to furnish another person obscene material.

Subd. 4 Prosecution. Any prosecution under this Section shall include the following elements: (1) that the average person, applying contemporary community standards, would find the material, taken as a whole, appeals to the prurient interest of the audience or reader; (2) that the material describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene"; and (3) that the material, taken as a whole, lacks serious literary, artistic, political or scientific value.

Section 1060 – PENALTIES

1060.01 Misdemeanor Violations. Violating the following ordinances within this Chapter constitutes a misdemeanor offense as that term is defined in City ordinance and under state Section 1000.01; 1005.01-1005.07; 1010.02; 1015.01-1015.14; 1030.01-1030.03; 1050.01, Subds. c-f; 1050.02-1050.05; and 1055.01.

1060.02 Petty Misdemeanor Violations. All violations of Chapter 10 of the Heidelberg City Code not designated as misdemeanors under 1060.01 shall be petty misdemeanors.

1060.03 Criminal Penalties. A person violating any provision of this Chapter shall be guilty of a misdemeanor. A defendant convicted of a misdemeanor under this Section of the City Ordinance, in addition to the other penalties proscribed by law, shall be made responsible for reimbursing the City its costs of prosecution. This Section is adopted in conformance with Minnesota Statutes Section 412.231, which the City hereby adopts and incorporates herein.

1060.04 Administrative Remedies. The City may, at its sole discretion, invoke any administrative remedy available to it under the Code in the event a person violates any provision of this Chapter. For the purposes of this Section a person is defined as an individual, a partnership, a corporation, or any other entity.

1060.05 Non-Exclusivity of Remedies. Violations of this Chapter of the Heidelberg City Code may be remedied by the City, at its sole discretion, administratively or through criminal prosecution. These remedy options are not mutually exclusive, and the City may pursue both remedy options simultaneously.

1060.06 Continued Violation. As concerns Section 1060.01, each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. This continued violation provision shall not apply to any other Section or portion of Chapter 10 of the City Code.