

## CHAPTER 95: MARINE SAFETY

### Section

#### General Provisions

95.01 Title

95.02 Definitions

#### Regulations and Prohibitions

95.10 Age of operator

95.11 Rules of operation

95.12 Speed

95.13 Operation while intoxicated

95.14 Blood alcohol testing

95.15 Operation while visibly impaired

95.16 Submission and consent to chemical tests

95.17 Negligent or reckless operation and conduct

95.18 Operation in open areas; distance to be kept from docks, bathing areas, and the like

95.19 Restricted areas

95.20 Skiing and the like

95.21 Onboard safety

95.22 Diving and submerged swimming

95.23 Sanctioned boat races

95.24 No-wake zones

#### Administration and Enforcement

95.30 Duty to obey peace officer; arrest without warrant authorized

95.31 Procedures following arrest

95.99 Penalty

GENERAL PROVISIONS

§ 95.01 TITLE.

This chapter shall be known and may be cited as the "Marine Safety Ordinance."

(Ord. 116, passed 7-25-90)

§ 95.02 DEFINITIONS.

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

**ANCHORED RAFTS.** All types of non-powered rafts used for recreational purposes which are anchored seasonally on waters of the city.

**ASSOCIATED EQUIPMENT.** A system, part, or component of a boat as originally manufactured, or a similar part or component manufactured or sold for replacement, repair or improvement of the system, part, or component; an accessory or equipment for, or appurtenance to, a boat; or a marine safety article, accessory, or equipment intended for use by a person on board a boat. It does not include radio equipment.

**BOAT.** A vessel which is manufactured or used primarily for noncommercial use; leased, rented or chartered to another for the latter's noncommercial use; or engaged in the carrying of not more than six passengers.

**BOAT LIVERY.** A business which holds a vessel for renting, leasing, or chartering.

**BOATING SAFETY CERTIFICATE.** A certificate issued by the Director of the State Department of Natural Resources evidencing that the holder has successfully completed a state-approved course of instruction in boating safety.

**HIGH SPEED BOATING.** A speed at or above which a motorboat reaches a planing condition.

**LIFEBOAT.** A small boat designated and used solely for lifesaving purposes, and does not include dinghies, tenders, speedboats, or other types of craft carried aboard vessels and used for other than lifesaving purposes.

**MANUFACTURER.** A person engaged in the manufacture, construction, or assembly of boats or associated equipment; the manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or the importation of a boat or associated equipment into the state for sale.

**MOTORBOAT.** A vessel propelled by machinery, whether or not machinery is the principal source of propulsion.

OPERATE. To navigate or otherwise use a vessel.

OPERATOR. The person who is in control or in charge of a vessel while it is in use.

OWNER. A person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him or her to the possession.

PASSENGER. A person carried on board a vessel other than the owner or his or her representative; the operator; bona fide members of the crew engaged in the business of the vessel who have not contributed consideration for their carriage and who are paid for their services; or a guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed consideration, directly or indirectly, for his or her carriage.

PORT. Left, and reference is to the port side of a vessel or to the left side of the vessel.

REGATTA, BOAT RACE, MARINE PARADE, TOURNAMENT, or EXHIBITIONS. An organized water event of limited duration which is conducted according to a prearranged schedule.

SLOW-NO WAKE SPEED. A very slow speed whereby the wake or wash created by the vessel would be minimal.

STARBOARD. Right, and reference is to the starboard side of a vessel or to the right side of the vessel.

UNDOCUMENTED VESSEL. A vessel which does not have, and is not required to have, a valid marine document issued by the United States Coast Guard or federal agency successor thereto.

USE. Operate, navigate, or employ.

VESSEL. Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

WATERS OF THE CITY. Any waters within the territorial limits of the city.

(Ord. 116, passed 7-25-90)

## REGULATIONS AND PROHIBITIONS

### § 95.10 AGE OF OPERATOR.

Children less than 12 years of age may be permitted to operate motorboats on the waters of the city only when accompanied by at least one person 16 years of age or older. Children between the ages of 12 and 16 may be permitted to operate motorboats on the waters of the city only when accompanied by a least one person 16 years of age or older, or without such adult supervision when in possession of a boating safety certificate issued subsequent to satisfactorily completing a course in boating safety approved by the State Department of Natural Resources. When so operating, the boating safety certificate shall be in the possession of the minor operator and shall be presented upon demand of any

peace officer. The provisions of this section shall not be applicable to any motorboat powered by less than 6-horsepower motors.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.11 RULES OF OPERATION.

(A) When vessels are being operated in such a manner so as to make collision imminent or likely, the following rules shall apply:

(1) When two vessels are approaching each other head-on, or nearly so, the operator of each shall cause his or her vessel to pass on the port side of the other.

(2) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessel, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

(3) When two vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when one vessel is overtaking another, the operator of the vessel which has the other on his or her own port side shall hold his or her course and speed, and the operator of the vessel which has the other on his or her own starboard side shall give way to the other by directing his or her course to starboard so as to cross the stern of the other vessel or, if necessary to do so, shall slacken his or her speed, stop or reverse.

(4) When a motorboat and a vessel under sail are proceeding in such a manner so as to involve risk of collision, the operator of the motorboat shall give way to the vessel under sail.

(5) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in such manner as to involve risk of collision, the operator of the motorboat shall give way to the other vessel.

(6) When, by any of the rules provided in this section, the operator of a vessel is required to give way to the other, the operator of the other vessel shall maintain his or her direction and speed.

(B) Nothing in this section shall relieve the operator of a vessel otherwise privileged by the provisions of this section from the duty to operate with due regard for the safety of all persons using the waters of the city.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.12 SPEED.

(A) On waters of the city for which a motorboat speed limit is not established under Public Act 303 of 1967, being M.C.L.A. § 281.1072a(1), or on any waters of the city that are not subject to an unlimited motorboat speed limit established pursuant to M.C.L.A. § 281.1072a(1), or on any waters of the city for which stricter speed restrictions are not established pursuant to an act of the state, or on

any waters of the city for which stricter speed restrictions are not established pursuant to a special local ordinance under Public Act 303 of 1967, being M.C.L.A. § 281.1016, a maximum speed limit of 55 miles per hour is established, except in an emergency and except for authorized peace and conservation officers when engaged in official duties. The maximum speed limit of 55 miles per hour shall apply to Lake Michigan.

(B) A person shall not operate a motorboat on the waters of the city at a speed greater than slow-no wake speed or the minimum speed necessary for the motorboat to maintain forward movement when within 200 feet of the shoreline where the water depth is less than 3 feet, as determined by vertical measurement, except in navigable channels not otherwise posted.

(C) A person operating a motorboat in violation of this section is guilty of reckless operation of a motorboat punishable as provided in § 95.99.

(D) This section may be waived for marine events authorized by the State Department of Natural Resources under § 95.19.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.13 OPERATION WHILE INTOXICATED.

(A) A person who is under the influence of intoxicating liquor or a controlled substance, as defined by Section 7104 of the Public Health Code, Public Act 368 of 1978, as amended, being M.C.L.A. § 333.7104, or a combination of intoxicating liquor and a controlled substance, shall not operate, propel, or be in actual physical control of a vessel upon the waters of the city. The owner of a vessel, or a person having charge of or in control of a vessel, shall not knowingly authorize or knowingly permit the vessel to be propelled or operated by a person who is under the influence of an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance. A violation of this division (A) is punishable as provided in divisions (C) and (D) of this section.

(B) A peace officer may arrest a person without a warrant when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a vessel involved in the accident and was operating the vessel upon the waters of the city while under the influence of intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance or was operating a vessel on the waters of the city while the person's ability to operate a vessel was visibly impaired due to the consumption of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance.

(C) A person who is convicted of a violation of division (A) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$100 nor more than \$500, or both, together with costs of the prosecution.

(D) Upon conviction of a person under this section, the court, in addition to the penalty imposed under division (C) and as part of the sentence, may order that the person not operate a vessel

upon the waters of the city for a period of not more than two years. The court may also order the person to participate in an alcohol training program.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.14 BLOOD ALCOHOL TESTING.

(A) In a criminal prosecution for operating a vessel while under the influence of intoxicating liquor, or for operating a vessel while visibly impaired, the amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall be admissible into evidence. If a test is given, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the report at least two days before the day of the trial and the results shall be offered as evidence by the prosecution in a criminal proceeding. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution. The amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:

(1) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.

(2) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vessel was impaired within the provisions of Section 1073b due to the consumption of intoxicating liquor.

(3) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(B) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the alcoholic content of the blood under this chapter. Liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures shall not attach to a qualified person who withdraws blood or assists in the withdrawal in accordance with this chapter unless the withdrawal is performed in a negligent manner.

(C) A person charged with a crime enumerated in division (A) who takes a chemical test administered at the request of a peace officer, as provided in divisions (A) and (B), shall be informed that the person will be given a reasonable opportunity to have a person of his or her own choosing administer one of the chemical tests, as provided in this section, within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. A person charged with a crime enumerated in division (A) who is requested by the peace officer to take a chemical test as provided in divisions (A) and (B) shall be informed that he or she has the right to demand that one of the

tests provided for in division (A) shall be given him or her, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant.

(D) The person charged shall be advised that the person may refuse to take a test as provided in this section and, except as provided in § 95.16(B), that the refusal is admissible in evidence as provided in division (G) of this section.

(E) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

(F) Notwithstanding any other provision of this chapter, a person requested to take a test shall be advised that he or she has the option to demand that only a breath test shall be given, in which case his or her refusal to submit to another test shall not constitute a refusal.

(G) If a jury instruction regarding a defendant's refusal to submit to a chemical test under this section is requested by the prosecution or the defendant, the jury instruction shall be given as follows:

“Evidence was admitted in this case which, if believed by the jury, could prove that the defendant had exercised his or her right to refuse a chemical test. You are instructed that such a refusal is within the statutory rights of the defendant and is not evidence of the defendant's guilt. You are not to consider such a refusal in determining the guilt or innocence of the defendant.”

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.15 OPERATION WHILE VISIBLY IMPAIRED.

(A) A person shall not operate a vessel upon the waters of the city when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person has visibly impaired his or her ability to operate the vessel. If a person is charged with violating § 95.13, a finding of guilty is permissible under this section.

(B) A person convicted of a violation of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$300, or both, together with costs of the prosecution.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.16 SUBMISSION AND CONSENT TO CHEMICAL TESTS.

(A) A person who operates a vessel upon the water of the city may be requested by a peace officer to submit to chemical tests of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood if:

(1) The person is arrested for a violation of §§ 95.13 or 95.15.

(2) The person is arrested for manslaughter resulting from the operation of a vessel and the peace officer had reasonable grounds to believe that the person was operating the vessel while under the influence of intoxicating liquor, or while his or her ability to operate the vessel was impaired due to the consumption of intoxicating liquor.

(B) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician and who refuses a chemical test shall not be considered to have refused a chemical test if the test requires the withdrawal of blood. This refusal is not admissible in evidence under § 95.14.

(C) A person who is requested pursuant to division (A) of this section to take a chemical test shall be advised of the right to refuse to submit to chemical tests; and if the person refuses the request of a peace officer to submit to chemical tests, a test shall not be given without a court order.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.17 NEGLIGENT OR RECKLESS OPERATION AND CONDUCT.

(A) A person operating or propelling a vessel upon the waters of the city shall operate it in a careful and prudent manner and at such a rate of speed so as not to endanger unreasonably the life or property of any person. A person shall not operate any vessel at a rate of speed greater than will permit him or her, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. A person shall not operate a vessel in a manner so as to interfere unreasonably with the lawful use of others of any waters of the city.

(B) A person who operates any vessel upon any of the waters of the city carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, is guilty of reckless operation of a vessel and shall be punished as provided in § 95.99. A person who navigates, steers, or controls himself or herself while being towed on water skis, a water sled, a surfboard or similar contrivances upon any of the waters of the city carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property is guilty of reckless operation of water skis, water sleds, surfboards or similar contrivances.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.18 OPERATION IN OPEN AREAS; DISTANCE TO BE KEPT FROM DOCKS, BATHING AREAS, AND THE LIKE.

Persons operating vessels on the waters of the city in areas not marked by well-defined channels, canals, rivers or stream courses shall operate in a counterclockwise fashion insofar as it is reasonably possible. These persons and persons being towed on water skis, water sleds, kites,



surfboards or similar contrivances shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when the vessel is proceeding at a slow-no wake speed or when water skiers are being picked up or dropped off, if such operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the Marine Safety Ordinance and the laws of the state.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.19 RESTRICTED AREAS.

A person shall not operate a vessel on any of the waters of the city within a lawfully authorized restricted area clearly marked by buoys, beacons or other distinguishing devices as being prohibited to vessels.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.20 SKIING AND THE LIKE.

(A) Prohibition against nighttime skiing. An operator of any vessel shall not have in tow or otherwise be assisting in the propulsion of a person on water skis, a water sled, a surfboard or other similar contrivance during the period of one hour after sunset to one hour prior to sunrise. Any person permitting himself or herself to be towed on water skis, a water sled, a surfboard or a similar contrivance in violation of any of the provisions of this chapter is guilty of a misdemeanor.

(B) Additional rules of operation.

(1) (a) A person shall not operate on the waters of the city a vessel having in tow or otherwise assisting a person on water skis, a water sled, an aquaplane, a surfboard or other similar contrivance, unless there is in the vessel, in addition to the operator, at least one competent person in a position to observe the progress of the person being towed. An observer shall be considered competent if he or she can, in fact, render assistance if necessary.

(b) All motorboats engaged in the propulsion of a person on water skis, a water sled, an aquaplane, a surfboard or a similar contrivance shall be equipped with a 170° wide-angle rear view mirror affixed in a manner as will permit the operator to observe the progress of the person being towed.

(2) The provisions of this subsection shall not apply to vessels used by duly constituted ski schools in the giving of instructions, or to vessels used in sanctioned ski tournaments, competitions, expositions or trials therefor, or to motorboats less than 16 feet in length actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

#### § 95.21 ONBOARD SAFETY.

Any occupant or operator of any vessel underway on the waters of the city shall not sit, stand or walk upon any portion of the vessel not specifically designed for such purpose, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

§ 95.22 DIVING AND SUBMERGED SWIMMING.

Any person diving or submerging in any of the waters of the city with the aid of a diving suit or other mechanical diving device shall place a buoy or boat in the water at or near the point of submergence. The buoy or boat shall bear a red flag not less than 14 inches by 16 inches with a 3½-inch white strip running from one upper corner to a diagonal lower corner. The flag shall be in place only while actual diving operations are in progress. A vessel shall not be operated within 100 feet of a buoyed diver's flag unless it is involved in tendering the diving operation. A person diving shall stay within a surface area of 100 feet of the diver's flag.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

§ 95.23 SANCTIONED BOAT RACES.

The holding of regattas, motorboat or other boat races, marine parades, tournaments, exhibitions or trials therefor on any waters of the city shall be conducted pursuant to State Department of Natural Resources authorization given under Public Act 303 of 1967, being M.C.L.A. § 281.1151.

(Ord. 116, passed 7-25-90) Penalty, see § 95.99

§ 95.24 NO-WAKE ZONES.

(A) (1) All words and phrases used in this subsection shall be construed and have the same meanings as those words and phrases defined in Public Act 303 of 1967, as amended, M.S.A. 18.1287(8).

(2) R281.770.9 Spring Lake; slow-no wake speed.

RULE 9. On the waters of Spring Lake adjacent to the City of Ferrysburg, Village of Spring Lake, Spring Lake Township, Ottawa County, it is unlawful for:

a. The operator of a vessel less than 26 feet in length to exceed a slow-no wake speed when within 200 feet of any shore, dock, or pierhead.

b. The operator of a vessel 26 feet or more in length to exceed a slow-no wake speed.

(See R281.761.7 covering that portion of Spring Lake which lies in Muskegon County.)

(3) R281.770.10 Spring Lake and connected waters; slow-no wake speed.

RULE 10. It is unlawful for the operator of a vessel to exceed a slow-no wake speed on the following described waters in the City of Ferrysburg, Village of Spring Lake, Spring Lake Township, Ottawa County:

a. Smith Bayou: On the waters of Smith Bayou, Section 9, 15 and 16, T8N, R16W, City of Ferrysburg, Ottawa County, northwesterly of a line beginning where the centerline of Reenders Street, as extended, intersects the water's edge and thence southwesterly to the nearest opposite shore.

b. The south end of Spring Lake described as: from the M-104 bridge, northeasterly 2500 feet and from the Ferrysburg shore to the center of Spring Lake.

(Ord. 34, passed 5-22-74; Am. Ord. 34A, passed 4-28-76; Am. Ord. 52, passed 5-24-78; Am. Ord. 70, passed 2-25-81)

(B) R 281.770.27 Spring Lake; slow-no wake speed zone.

RULE 27. On that portion of the waters of Spring Lake located within Section 16, T8N, R16W City of Ferrysburg, Ottawa County, it is unlawful for the operator of a vessel to exceed a slow-no wake speed.

(Ord. 73, passed 7-22-81)

(C) Watercraft Control 70-96-001 Grand River; slow-no wake speed.

On the waters of the Grand River, sections 16 and 17, Town 8 North, range 16 west, City of Ferrysburg, Ottawa County, State of Michigan, commencing on the South line of section 17 at the shoreline of the Grand River, thence easterly on the South line of section 17 to the center of the Grand River, thence northeasterly along the centerline of the Grand River to a point 3,200 feet downstream from the Grand Trunk (now CSX) railway bridge, thence Northerly to the shoreline of the Grand River, thence westerly along the shoreline of the Grand River to the South line of section 17, it is unlawful for the operator of a vessel to exceed a slow-no wake speed.

The boundaries of the area described immediately above shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State Uniform Waterway Marking System.

(Ord. 160, passed 6-17-96) Penalty, see § 95.99

#### ADMINISTRATION AND ENFORCEMENT

#### § 95.30 DUTY TO OBEY PEACE OFFICER; ARREST WITHOUT WARRANT AUTHORIZED.

(A) The operator or person in charge of any vessel being used or operated on the waters of the city, upon being hailed by any peace officer empowered to enforce the provisions of this chapter, shall immediately bring the vessel to a stop or maneuver it in such manner as will permit the officer to

come alongside. The operator or person in charge of the vessel and any other person on board shall give his or her correct name and address, exhibit the certificate of number awarded for the vessel, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.

(B) A peace officer who observes any violation by any person of any of the provisions of this chapter may forthwith arrest the person without a warrant.

(Ord. 116, passed 7-25-90)

§ 95.31 PROCEDURES FOLLOWING ARREST.

(A) Appearance before court officer; when required.

(1) Whenever a person is arrested without a warrant for any violation of this chapter, the arrested person shall be taken, without unreasonable delay, before a magistrate or a district court judge within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made, in any of the following cases:

- (a) when the person is arrested under Section 1073 or Section 1073b;
- (b) when a person is arrested under § 95.13(B).

(2) When in the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed in such cases as provided by subsection (B) below.

(B) Notice to appear in court in lieu of being taken before court officer; when permitted; procedure.

(1) When a person is arrested without a warrant for any violation of this chapter, under conditions not referred to in subsection (A), the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of the person, the offense charged, and the time and place when and where the person shall appear in court. If the arrested person so demands, he or she shall be taken before a magistrate or a district court judge as provided in subsection (A) in lieu of being given the notice.

(2) The time specified in the notice to appear shall be within a reasonable time after the arrest unless the person arrested demands an earlier hearing.

(3) The place specified in the notice to appear shall be before a magistrate or a district court judge within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense.

(4) Appearance may be made in person, by representation, or by mail. When appearance is made by representation, or mail, the magistrate or the district court judge may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him or her. The magistrate or the district court judge, by giving notice five days prior to the date of appearance, may require appearance in person at the time and place designated in the notice.

(C) Nonresidents.

(1) When a person not a resident of the state is arrested without a warrant for any violation of this chapter under conditions not referred to under subsection (A) above, the officer making the arrest, upon demand of the arrested person, shall forthwith take the person before a magistrate or a district court judge in the vicinity to answer to the complaint made against him or her. If a magistrate or a district court judge is not available or an immediate trial cannot be had, the person arrested may recognize to such officer for his or her appearance by leaving with him or her a sum of money not to exceed \$25.

(2) In all cases the officer making the arrest shall give a receipt to the person arrested for the money so deposited with him or her together with a written summons as provided in subsection (B) above.

(3) If the offender fails to appear as required, the deposit shall be forfeited as in other cases of default in bail, in addition to any other penalty provided in this chapter.

(4) Every officer taking a deposit under this section within 48 hours thereafter shall deposit it with the magistrate or the district court judge named in the notice to appear, together with a report stating the facts relating to the arrest. Failure to make the report and deposit the money is embezzlement of public money.

(Ord. 116, passed 7-25-90)

§ 95.99 PENALTY.

A violation of any of the provisions of this chapter (except where expressly set forth otherwise) is a misdemeanor punishable as set forth in § 10.99.

(Ord. 116, passed 7-25-90)