

## CHAPTER 3

### MUNICIPAL REGULATION AND LICENSING

#### Section 300 - General Licensing and Regulation Provisions

**300.01. Definitions.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purposes of this Chapter, shall have the following meanings:

**Subd. 1. Applicant.** The term “applicant” means any person making an application for a license under this Chapter.

**Subd. 2. Application.** The term “application” means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

**Subd. 3. Bond.** The term “bond” means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

**Subd. 4. Business.** The term “business” means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

**Subd. 5. License.** The term “license” means a document issued by the City to an applicant permitting him or her to carry on and transact a business.

**Subd. 6. Licensee.** The term “licensee” means an applicant who, pursuant to his or her application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

**Subd. 7. License Fee.** The phrase “license fee” means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

**Subd. 8. Sale, Sell, Sold.** The terms “sale”, “sell” and “sold” mean all forms of barter and all manner or means of furnishing merchandise to persons.

**300.02. Applications.** All applications shall be made as follows:

**Subd. 1. Where; To Whom.** All applications shall be made at the office of the Clerk-Administrator upon forms that have been formulated by the City for such purposes.

**Subd. 2 Information Required.** All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

A. Applicant's name and citizenship.  
B. Applicant's present address and length of time he or she has lived at that address.

C. Applicant's occupation and length of time so engaged.

D. Applicant's addresses and occupations for the three (3) years next

preceding the date of application.

E. Names and addresses of applicant's employers, if any, for the three (3) years next preceding the date of application.

F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense.

G. Type of license and location of premises for which application is made.

H. At least four (4) character references if applicant has not resided in the City for two (2) years next preceding the date of application.

I. Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

**Subd. 3. False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.

**Subd. 4. Investigation.** The Clerk-Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he or she deems necessary. For such investigation the Clerk-Administrator may enlist the aid of the Police Department. The Council shall not consider an application before such investigation has been completed. (*Section 300.02, Subd. 4 amended per Ordinance 99-08 dated 9-21-99.*)

### **300.03. Action on Application For License.**

**Subd. 1. Granting.** The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this Chapter.

**Subd. 2. Issuing.** If an application is granted, the Clerk-Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. License fees shall be due annually on April 15 unless otherwise specified herein. No fee shall be pro-rated for multiple installment unless the amount due makes a single annual payment prohibitive. If a fee needs to be pro-rated, it shall be done over a twelve (12) month period. Partial year licenses shall be available. Only partial year license fees over \$25.00 shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year. No refund of a paid license fee shall be made unless such a refund is specified in this Chapter or required by State law. Licenses shall be valid only at one location and on the premises therein described.

**Subd. 3. Transfer.** A license shall be transferable between persons upon consent

of the Council. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this subdivision.

**Subd. 4. Termination.** Licenses shall terminate only by expiration or revocation.

**Subd. 5. Refusal and Revocation.** The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice is to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. (*Section 300.03, Subd. 5 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 6. Duplicate License.** Duplicates of all licenses may be issued by the Clerk-Administrator, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee for issuance of the duplicate license as specified in the City fee schedule. All duplicate licenses shall be clearly marked DUPLICATE. (*Section 300.03, Subd. 6 amended per Ordinance 99-08 dated 9-21-99.*)

**300.04. Carrying or Posting.** All solicitors, peddlers and transient merchants shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device licensed, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen of the City of Blue Earth.

**300.05. Penalty For Property Owners.** It is unlawful for any person to knowingly permit any real property owned or controlled by him or her to be used, without a license, for any business for which a license is required by this Chapter.

**300.06. Responsibility of Licensee.** The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee.

**300.07. Reasons for Denial of License.** An application for a license may be denied for the following grounds upon a finding of fact supported by the evidence that:

**Subd. 1. Non-Compliance.** The applicant does not comply with the prerequisites and conditions established by this Chapter regarding the license sought;

**Subd. 2. Moral character.** The applicant is not of "good moral character" and the license is for a profession or occupation which affects the public health, safety, morals, or general welfare;

**Subd. 3. Public Safety.** The granting of a license would be a menace to public safety, health, morals or welfare; (*Section 300.07, Subd. 3 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 4. Misrepresentation.** There has been a material misrepresentation on the application; or

**Subd. 5. Non-payment.** Non-payment of the required license fee.

**300.08. Conviction of Crime - Denial of License.** A license may be denied to an applicant by the Council solely or in part due to a prior conviction of a crime by an applicant only upon a finding that such conviction directly relates to the occupation for which the license is sought, and then only after considering evidence of rehabilitation and such other evidence as may be presented, all in accordance with Minnesota Statutes. Provided, however, that an applicant must show his or her present fitness to perform the occupation for which the license is sought.

**300.09. Conditional Licenses.** Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

## Section 310 - Solicitors, Peddlers and Transient Merchants

**310.01. Definitions.** The following terms shall have the meanings given them herein as applied to this Section.

**Subd. 1. Person.** The term “person” means any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

**Subd. 2. Peddler.** The term “peddler” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term “hawker”.

**Subd. 3. Solicitor.** The term “solicitor” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, for which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term “canvasser”.

**Subd. 4. Transient Merchant.** The term “transient merchant” means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than five (5) consecutive days.

**Subd. 5. Regular Business Day.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by State law shall not be counted as regular business days.

**310.02. Exceptions to Definitions.** For purposes of this section, the terms “solicitor”, “peddler” and “transient merchant” shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer or the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, nor shall they apply to any person making deliveries of such to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddler, solicitor, and transient merchant,

as shall any person conducting an auction as a properly licensed auctioneer, or any officer of the Court conducting a Court ordered sale. Exemption from the definitions for the scope of this Section shall not excuse any person from complying with any other applicable statutory or local law.

### **310.03. Licensing.**

**Subd. 1. County License Required.** No person shall conduct business as solicitor, peddler or transient merchant within the City limits without first having obtained the appropriate license from the County as required by Minnesota Statutes Chapter 329 as amended.

**Subd. 2. City License Required.** Except as otherwise provided for in this Section, no person shall conduct business as a peddler or transient merchant without first having obtained a license from the City.

**Subd. 3. Application.** Application for a City license to conduct business as a peddler or transient merchant shall be made at least fifteen (15) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available at the office of Clerk-Administrator. All applications shall be signed by the applicant.

**Subd. 4. Fee.** All applications for a license under this Section shall be accompanied by the fee established in the City's fee schedule as adopted from time to time by resolution passed by the Council.

**Subd. 5. Procedure.** Upon receipt of the completed application and payment of the license fee, the Clerk-Administrator shall forward the application to the Police Department. An application shall be determined to be complete only if all required information is provided. The Police Department shall determine whether an application is complete within two (2) regular business days of receipt. If the application is incomplete, the Police Department shall inform the applicant of any information which is missing. If the application is complete, the Police Department shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Upon verification of the information, the application shall be forwarded to the Council for approval. The Council shall vote whether or not to issue the license at the next regularly scheduled Council meeting after receipt of the application. If the Council approves the application, the Clerk-Administrator shall issue the license to the applicant. If the application is not approved, the Clerk-Administrator shall notify the applicant in writing of the Council's decision, the reason for denial, and of his or her right to appeal the denial by requesting within twenty (20) days of receiving notice of rejection a public hearing to be heard by the Council within twenty (20) days of the request. The final decision of the Council following the public hearing shall be appealable to the Minnesota Court of Appeals for a Writ of Certiorari.

**Subd. 6. Duration.** An annual license granted under this Section shall be valid for one calendar year from April 15 to April 14. All other licenses granted under this Section shall be valid only during the time period issued on the license. (*Section 310.03, Subd. 6 amended per Ordinance 99-08 dated 9-21-99.*)

**310.04. License Exceptions.** No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights, except when such exercise of a right is merely incidental to a commercial activity. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.

**310.05. Ineligibility for License.** The following shall be grounds for denying a license under this Section.

**Subd. 1. No County License.** The failure of the applicant to obtain and show proof of having obtained a County license.

**Subd. 2. Inadequate Application.** The failure of the applicant to truthfully provide any information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required application fee at the time of application.

**Subd. 3. Prior Conviction.** The conviction of the applicant within the past five (5) years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will adversely affect the health, safety, or welfare of the residents of the City. Such violations shall include, but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person. (*Section 310.05, Subd. 3 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 4. Prior Revocation.** The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a solicitor, peddler or transient merchant.

**Subd. 5. Business Reputation.** The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or five (5) such complaints filed against the applicant within the last five (5) preceding years.

**310.06. Suspension or Revocation.**

**Subd. 1. Reasons For.** Any license issued under this Section may be suspended or revoked at the direction of the City Council for violation of any of the following:

A. Fraud, misrepresentation, or incorrect statements on the application form.

B. Fraud, misrepresentation, or incorrect statements made during the course of the licensed activity.

C. Conviction of any offense for which granting of a license could have been denied under this Section.

D. Violation of any provision of this Section.

The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

**Subd. 2. Notice.** Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with a written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or be mailed to the permanent residential address listed in the license application, or if no residential address is listed, to the business address provided in the license application.

**Subd. 3. Public Hearings.** Upon receiving the notice provided in subdivision 2, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the Clerk-Administrator within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

**Subd. 4. Emergency.** If in the discretion of the City Council, imminent harm to the health and safety of the public may occur because of the actions of a peddler or transient merchant licensed under this Section, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as proscribed in subdivision 3 of this Subsection.

**Subd. 5. Appeals.** Any person whose license is suspended or revoked under this Subsection shall have the right to appeal the decision in Court.

**310.07. Transferability.** No license issued under this Section shall be transferred to any person other than the person whom the license was issued.

**310.08. Registration.** All solicitors, and any person exempt from the licensing requirements of this Section shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the Clerk-Administrator shall issue the registrant the Certificate of Registration as proof of registration. Certificates of Registration shall be non-transferable.

**310.09. Prohibited Activities.** No solicitor, peddler or transient merchant shall conduct business in any of the following manners:

**Subd. 1. Noises.** Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise,

so as to be unreasonably audible within an enclosed structure.

**Subd. 2. Obstructions.** Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.

**Subd. 3. Public Safety.** Conducting business in such a way as to create a threat to the health, safety, or welfare of any individual or the general public. (*Section 310.09, Subd. 3 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 4. Prohibited Times.** Conducting business before 7:00 A.M., or after 9:00 P.M.

**Subd. 5. No License.** Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

**Subd. 6. Misrepresentation.** Making any false or misleading statements about the product or service being sold, including untrue statements or endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

**Subd. 7. Trespass.** Remaining on the property of another when requested to leave, or otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

**310.10. Exclusion by Placard.** No solicitor, peddler or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a solicitor, peddler or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3 3/4) inches long and three and three quarter (3 3/4) inches wide with print of at least forty-eight (48) point type stating “No Solicitors, Peddlers or Transient Merchants”, or “Solicitors, Peddlers or Transient Merchants Prohibited”, or a comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

## **Section 320 - Retail Sale of Tobacco Products.**

### **320.01. License.**

**Subd. 1. License From City Required.** No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco product at any place in the City without first obtaining a license from the City. "Tobacco" is defined as and includes: cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices. (*Section 320.01, Subd. 1 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 2. License Fee.** The fee for every such license shall be the fee specified in the City's fee schedule as set periodically by resolution of the Council, subject to any limitations imposed by State law. Every license shall be valid beginning April 15th of the issuance year until April 14th of the following year. (*Section 320.01, Subd. 2 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 3. License Shall be Displayed.** Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

**320.02. Application and Issuance.** Application for the license shall be made to the Clerk-Administrator on a form supplied by the City. The application shall state all the information required by Section 300.02 of this Chapter and any other information as shall be required by the application form. Upon the filing of the application with the Clerk-Administrator, it shall be presented to the City Council for its consideration, and if granted by the Council, a license shall be issued by the Clerk-Administrator upon payment of the required fee.

**320.03. Sales Prohibited to Minors.** No person shall sell or offer to sell any tobacco or tobacco product to any person under eighteen (18) years of age.

**320.04. Transfers.** Licenses shall not be transferable from one person to another.

**320.05. Restrictions.** No license shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of tobacco at a movable place of business; nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any tobacco product to any person below the age of eighteen (18) years. No person shall keep for sale, sell, or dispose of any cigarette containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug, except nicotine.

### **320.06. Administrative Penalties.**

**Subd. 1. Licensees.** If a licensee or employee of a licensee sells tobacco to a person under the age of eighteen (18) years, or violates any other provision of this

Section, the licensee shall be charged an administrative penalty of \$75.00. An administrative penalty of \$200.00 must be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of \$250.00 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven (7) days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of an alleged violation and an opportunity for a hearing before the City Council.

**Subd. 2. Individuals.** An individual who sells tobacco to a person under the age of eighteen (18) must be charged an administrative penalty of \$50.00. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the City Council is provided.

**Subd. 3. Defenses.** It is an affirmative defense to the charge of selling tobacco to a person under the age of eighteen (18) years in violation of this Section that the licensee or individual making the sale relied in good faith upon proof of age as follows:

A. A valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; or

B. A valid military identification card issued by the United States department of Defense; or

C. In the case of a foreign national, from a nation other than Canada, by a valid passport.

### **320.07. Self-Service Sales.**

**Subd. 1. Single Packages.** No licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee.

**Subd. 2. Cartons.** Cartons and multipack units may be offered and sold through open displays accessible to the public.

**Subd. 3. Exceptions.** The self-service restrictions of this Subsection do not apply to retail stores which derive at least ninety percent (90%) of their revenue from tobacco and tobacco related products and which cannot be entered at any time by persons younger than eighteen (18) years of age.

**320.08. Vending Machine Sales.** No person shall sell tobacco products from vending machines. This Subsection does not apply to vending machines in facilities that cannot be entered at any time by persons younger than eighteen (18) years of age.

**320.09. Compliance Checks.** The City shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minnesota Statutes, section 609.685. Compliance checks shall utilize minors over the age of fifteen (15), but under the age of eighteen (18), who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a police officer or an employee of the City.

**320.10. Suspension and Revocation.** Every license may be suspended or revoked by the Council for a violation of any provision of this Section if the licensee has been given a reasonable notice and an opportunity to be heard. (*Section 320.10 amended per Ordinance 99-08 dated 9-21-99.*)

## Section 330 - Gambling

**330.01. Purpose.** The purpose of this Section is to closely regulate and control the conduct of gambling.

**330.02. Provisions of State Law Adopted.** The provisions of Minnesota Statutes, Chapter 349, relating to the definition of terms, licensing, and restrictions of gambling are adopted and made a part of this Section as if set out in full.

**330.03. License or Permit Required.** No person shall directly or indirectly operate a gambling device, conduct a bingo operation, or conduct a raffle without a license to do so from the State Gambling Control Board, or if exempt from state licensing, without a permit from the City as provided in this Section.

**330.04. Persons Eligible for a License or Permit.** A license or permit shall be issued only to fraternal, religious, and veterans organizations, or any corporation, trust, or association organized for exclusively scientific, literary, charitable, educational, or artistic purposes, or any club which is organized and operated exclusively for pleasure or recreation. Such organization must have been in existence for at least three (3) years and have at least thirty (30) active members.

**330.05. Eligible Premises.** Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases, except that tickets for raffles may be sold off the premises. Leases shall be in writing and may not begin before the effective date of the premises permit and must expire on the same day that the premise permit expires. Rents paid by an organization for leased premises shall be subject to the guidelines set forth in Section 349.18 of the Minnesota Statute (effective May 31, 2003). (*Section 330.05 revised per Ordinance 03-18 dated 9-2-03.*)

**330.06. Local Gambling Permit Fee.** An annual gambling permit fee is to be paid to the City prior to the issuance of a permit. The fee due is the amount stated in the City fee schedule as periodically set by resolution of the council, subject to the limitations imposed on such a fee by State law.

**330.07. Application Procedure.** Application for a permit shall be made upon a form proscribed by the Council. No person shall make a false representation in an application. The Council shall act upon an application within 180 days from the date of application, but shall not issue a permit until at least thirty (30) days after the date of application.

**330.08. Gambling Profits.** (*Section 330.08 amended per Ordinance 99-02 dated 3-2-99.*)

**Subd. 1. Requirement.** A licensed organization conducting lawful gambling within the Jurisdiction of the City of Blue Earth shall expend fifty percent (50%) of its expenditures for lawful purposes conducted or located within the City's trade area.

Lawful purposes are those purposes defined as lawful by Minnesota Statutes.

**Subd. 2. Trade Area.** The Trade Area for the City of Blue Earth shall be the area defined by the jurisdictional boundaries of Independent School District No. 2860 in the County of Faribault and State of Minnesota.

### **330.09. Conduct of Gambling.**

**Subd. 1. Gambling Manager.** All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager to be designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. The gambling manager shall be responsible for using profits for a proper and lawful purpose.

**Subd. 2. Bond.** The gambling manager shall provide a fidelity bond in the sum of \$10,000.00 in favor of the organization conditioned on the faithful performance of his or her duties.

**Subd. 3. Qualifications of Gambling Manager.** The gambling manager shall be an active member of the organization and shall qualify under State law.

**330.10. Compensation.** No compensation shall be paid to any person in connection with the operation of a gambling device or the conduct of a raffle by a licensed organization. No person who is not an active member of an organization, or the spouse or surviving spouse of an active member, may participate in the organization's operation of a gambling device or conduct of a raffle.

### **330.11. Reporting Requirements.**

**Subd. 1. Gross Receipts.** Each organization licensed or permitted to operate gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.

**Subd. 2. Separation of Funds.** Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues or the organization, and placed in a separate account. The person who accounts for gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles shall not be the same person who accounts for other revenues of the organization.

**Subd. 3. Monthly Reports.** Each organization licensed and permitted to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the Clerk-Administrator, its gross receipts, expenses and profits from gambling devices or raffles, and the distribution of profits. The licensee or permit holder shall preserve such records for three (3) years.

**330.12. Prizes.** Total prizes awarded in or from any single game, ticket, or tip board operation used as part of a lawful gambling or bingo operation, and the total prizes awarded in any one year of operation of a lawful gambling or bingo operation shall not exceed the maximum prizes allowed by State law. In no situation shall the total prizes in any single operation of a paddle wheel or tip board or pull tab exceed the maximum prizes allowed by State law. (*Section 330.12 amended per Ordinance 99-08 dated 9-21-99.*)

**330.13. Bingo.** Nothing in this section shall be construed to authorize the conduct of bingo without acquiring a separate bingo license or permit. Bingo operations shall be conducted in accordance with Minnesota Statutes, Chapter 349 and the regulations promulgated by the Minnesota Gambling Control Board.

**330.14. Penalties.**

**Subd. 1. Criminal Penalty.** Violation of any provision of this Section shall be a misdemeanor.

**Subd. 2. License Suspension and Revocation.** Any permit may be suspended or revoked by the Council for any violation of this Section. A permit shall not be suspended or revoked until the procedural requirements of subdivision 3 of this Subsection have been complied with, provided that in cases where probable cause exists as to a violation, the City may temporarily suspend upon service of notice of the hearing provided for in subdivision 3. Such a temporary suspension shall not extend for more than two (2) weeks.

**Subd. 3. Suspension and Revocation Procedure.** Except as otherwise provided, a permit shall not be revoked or suspended under subdivision 2 of this Subsection until notice of an opportunity to be heard has first been given to the permit holder. The notice shall be personally served and shall state the Code provision reasonably believed to have been violated. The notice shall also state that the permit holder may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permit holder requests a hearing, one shall be held on the matter by the Council at least one (1) week after the date on which the request is made. If, as a result of the hearing, the Council finds that a violation exists, then the Council may suspend or terminate the permit.

## **Section 340 - Garbage and Refuse Haulers**

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

**Subd. 1. Garbage.** The term “garbage” means all putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water carried wastes.

**Subd. 2. Other Refuse.** The phrase “other refuse” means ashes, glass, crockery, cans, paper, boxes, rags and similar nonputrescible wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

**340.02. License Required.** It is unlawful for any person to haul garbage or other refuse for hire without a license therefor from the City, or to haul garbage or other refuse from his or her own residence or business property other than as herein excepted.

**340.03. License Fees.** The annual fee for a garbage and refuse hauler's license is the fee specified in the City's fee schedule as periodically set by resolution of the Council, subject to any limitations imposed by State law.

**340.04. Exception.** Nothing in this Section shall prevent persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed: (a) that all garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top; (b) that all other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo; and, (c) that all garbage and other refuse shall be dumped or unloaded only at a sanitary land-fill or other authorized solid waste disposal facility.

### **340.05. Rates and Standards of Operation.**

**Subd. 1. Vehicle Conditions.** Hauler licenses shall be granted only upon the condition that the licensee have tight packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or unloaded at any authorized sanitary land-fill or other solid waste disposal facility, and strictly in accordance with regulations relating thereto.

**Subd. 2. License Number Must Be Displayed.** Every vehicle used to collect garbage or refuse shall have the name of the owner or operator and the City license number under which it is being operated on the body of the vehicle, or on a durable metal or wood plaque which shall be fastened to the body, at all times when the vehicle is used for collecting garbage or refuse.

**Subd. 3. Service Charge Requirements.** Licensees shall be required to impose charges for collection of mixed municipal solid waste that increase with the volume or

weight of the waste collected and be prohibited from charging a greater charge on residents who recycle than on residents who do not recycle. Licensees shall comply with the provisions of Minnesota Statutes, Sections 115A.93 and 115A.9301 in setting the charges imposed by this Section.

**Subd. 4. Proof of Vehicle Insurance.** Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the Clerk-Administrator evidence that he or she has provided public liability insurance on all vehicles in at least the sum of \$25,000.00 for the injury of one person, \$50,000.00 for the injury of two or more persons in the same accident, and \$10,000.00 for property damages. Said policy shall carry an endorsement that the policies will not be canceled or terminated without first giving notice to the City, in writing, at least ten (10) days prior to the proposed cancellation.

## **Section 350 - Lodging**

**350.01. Definitions.** For the purpose of this Section, the following terms, phrases and words and their derivations have the meaning given herein.

**Subd. 1. City.** The term “city” means the City of Blue Earth.

**Subd. 2. Lodging.** The term “lodging” means the furnishing for a consideration of lodging by a hotel, motel, bed & breakfast, public/private campground, except where such lodging shall be for a continuous period of thirty (30) days or more to the same lodger(s). The furnishing of rooms owned by religious, educational, or non-profit organizations for self-sponsored activities shall not constitute “lodging” for purposes of this program.

**Subd. 3. Operator.** The term “operator” is defined to be the person who is the proprietor of the lodging facility, whether in the capacity of owner, lessee, sublessee, licensee, or any other capacity.

**Subd. 4. Person.** The term “person” means any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term person is used in any provision of this Section prescribing and imposing a penalty, the term as applied to a corporation, association, or partnership shall mean the officers or partners thereof, as the case may be.

**Subd. 5. Rent.** The term “rent” means the total consideration valued in money charged for the lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

**Subd. 6. Lodger.** The term “lodger” means the person obtaining lodging from an operator.

**350.02. Imposition of Tax.** Pursuant to Minnesota Statutes, Section 469.190, the City hereby imposes a tax of three percent (3%) on the gross receipts from the furnishing or consideration of lodging at a hotel, motel, rooming house, tourist court or resort, other than the renting or leasing of it for a continuous period of thirty (30) days or more.

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

**350.04. Payment and Returns.**

**Subd. 1. Payment.** The taxes imposed by this Section shall be paid monthly by the operator to the City no later than ten (10) days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the City may require.

**Subd. 2. Tax Return.** The return filed with the payment of the taxes imposed by this Section shall contain the following minimum information:

A. The total amount of rent collected or lodging during the period covered by the return.

B. The amount of tax required to be collected and due for the period.

C. The signature of the person filing the return or that of his or her agent duly authorized in writing.

D. The period covered by the return.

E. The amount of uncollectible rental charges subject to the lodging tax.

**Subd. 3. Offset.** The operator may offset against the taxes payable with the respect to any reporting period the amount of taxes imposed by this Section previously paid as a result of any transaction, the consideration for which became uncollectible during such recording period, but only in proportion to the portion of such consideration which became uncollectible.

**350.05. Examination of Return, Adjustment, Notices and Demands.** The Clerk-Administrator shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City within ten (10) days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the City within ten (10) days after determination of such refund. (*Section 350.05 amended per Ordinance 99-08 dated 9-21-99.*)

**350.06. Failure to File a Return.** If any operator required by this Section to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within five (5) days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such a person shall fail to file such return or corrected return, the Clerk-Administrator shall make a return or corrected return for such person from such knowledge and information as the Clerk-Administrator can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the Clerk-Administrator shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding with respect thereto.

**Subd. 1. Legal Action to Collect Tax.** If any portion of a tax imposed by this Section, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City may institute such legal action as may be necessary to recover the amount due plus interest, penalties and the cost and disbursements of any action.

**Subd. 2. Extensions May be Granted.** Upon a showing of good cause, the Clerk-Administrator may grant an operator one (1) thirty (30) day extension of time

within which to file a return and make payment of taxes as required by this Section provided that interest during such period of extension shall be added to the taxes due at the rate of ten percent (10%) per annum.

### **350.07. Penalties.**

**Subd. 1. Late Penalty.** If any tax imposed by this Section is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to ten percent (10%) of the amount remaining unpaid.

**Subd. 2. Failure to File Return Penalty.** In the case of any failure to make and file a return within the time prescribed by this Section, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax in addition to the ten percent (10%) specifically provided for in subdivision 1 above, ten percent (10%) if the failure is for not more than thirty (30) days with an additional five percent (5%) for each additional thirty (30) days or fraction thereof during which failure continues, not exceeding twenty-five percent (25% ) in the aggregate. If the penalty as computed does not exceed \$10.00, a minimum penalty of \$10.00 shall be assessed. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

**Subd. 3. Willful Violations.** If any person willfully fails to file any return or make any payment required by this Section, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such tax or payment thereof, there shall also be imposed as a penalty an amount equal to fifty percent (50%) of any tax (less amounts paid on the basis of such false or fraudulent return) found due for the period to which such return is related. The penalty imposed by this subdivision shall be collected as part of the tax, and shall be in addition to any other penalties provided for in this Section.

**Subd. 4. Order Payment to be Applied.** All payment received shall be credited first to penalties, next to interest, and then to the tax due.

**350.08. Administration of Tax.** The Clerk-Administrator shall administer and enforce the assessment and collection of the taxes imposed by this Section. He or she shall cause to be prepared blank forms for the returns and other documents required by this Section and shall distribute the same throughout the City and furnish them upon application; but failure to receive or secure them shall not relieve any person from any obligation required under this Section.

**350.09. Examination of Records.** The Clerk-Administrator may examine the books, papers, and record of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this Section. Every such operator is directed and required to give the Clerk-Administrator the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

**350.10. Violations.** Any person who shall willfully fail to make a return required by this

Section or shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this Section after written demand for such payment or who shall refuse to permit the Clerk-Administrator to examine the books, records, and papers under his or her control, or who shall willfully make an incomplete, false or fraudulent return shall be guilty of a misdemeanor.

### **350.11. Use of Proceeds.**

**Subd. 1. Tourism Promotion.** Ninety-five percent (95%) of the proceeds from the collection of taxes pursuant to this Section shall be used in accordance with Minnesota Statutes Section 469.190 as the same may be amended from time to time to fund a local convention/ tourism bureau for the purpose of marketing and promoting the City as a tourist/convention center. The City may retain the maximum of five (5%) for administrative costs.

**Subd. 2. Area Convention and Visitors Bureau.** The City by and through an agreement entitled “Agreement for the Establishment of a Convention and Visitors Bureau between the City of Blue Earth and the Blue Earth Area Chamber of Commerce” (hereinafter the “Agreement”) with the Blue Earth Area Chamber of Commerce (hereinafter “Chamber of Commerce”) hereby permits the Chamber of Commerce to create the Blue Earth Area Convention and Visitors Bureau (hereinafter “CVB”). CVB will be funded by the tax set forth herein and pursuant to Minnesota Statute Section 469A.190.

### **350.12. Appeals.**

**Subd. 1. Petition.** Any operator aggrieved by any notice, order or determination made by the Clerk-Administrator under this Section may file a petition for review of such notice, order or determination detailing the operator’s reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner’s address and location of the lodging subject to the notice, order or determination.

**Subd. 2. Filing.** The petition for review shall be filed with the Clerk-Administrator within ten (10) days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review.

**Subd. 3. Notice of Hearing.** Upon receipt of the petition, the Clerk-Administrator, or his or her designee, shall set a date for a hearing and give the petitioner at least five (5) days prior written notice of the date, time and place of the hearing.

**Subd. 4. Hearing Procedure.** At the hearing the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn, the petitioner may be represented by counsel of petitioner’s choosing at petitioner’s own expense. All disputes shall be conducted in accordance with principles and rules of the American Arbitration Association. The Hearing Examiner conducting the hearing shall make written finding of fact and conclusions based upon the applicable subdivisions of this Section and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order or determination made by the Clerk-Administrator.

**Subd. 5. Decision.** Any decision rendered by the hearing examiner pursuant to subdivision 4 may be appealed to the City Council. A petition seeking to appeal a decision and a written notice of appeal must be filed with the Clerk-Administrator within ten (10) days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as practicable. The Council shall then review the findings of fact and conclusions to determine whether they are correct. Upon determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse or affirm the decision of the Hearing Examiner or his or her designee upon the same standards as set forth in subdivision 4 of this Subsection.

## Section 360 - Animals

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

**Subd. 1. Animal.** The term “animal” means 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 or commonly accepted as domesticated pets.

5. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattle snakes, 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. “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), fowl (duck, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stables.

**Subd. 2. Cat.** The term “cat” means both the male and female of the felidae species commonly accepted as domesticated household pets.

**Subd. 3. Dog.** The term “dog” means 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.** The term “owner” means any person, persons, firm, association, or corporation owning, keeping, or harboring an animal.

**Subd. 5. At Large.** The phrase “at large” means 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.** The phrase “release permit” means a permit issued by the police department for the release of any animal that has been taken into the pound. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement and payment of a release fee periodically set by the Council from time to time plus the cost of keep.

### **360.02. Dogs and Cats.**

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

**Subd. 2. Registration Required.** All dogs and cats over the age of six (6) months must be registered with the City. Registration shall be made with the office of Clerk-Administrator. Applicants for registration shall file a completed application form provided by the City and shall also provide proof of anti-rabies vaccination of the dog or cat to be registered. Upon the filing of a completed application form and the payment of a reasonable registration fee set periodically by resolution of the Council, the Clerk-Administrator shall issue to the applicant a Certificate of Registration.

#### **Subd. 3. Vaccination.**

A. All dogs and cats kept, harbored, maintained, or transported within the City shall be vaccinated at least once every two years by a licensed veterinarian for rabies. (*Section 360.02, Subd. 3(A) amended per Ordinance 05-06 dated 3-21-05.*)

B. A certificate of vaccination must be kept in which is stated the date of vaccination, the 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 a police officer, the owner shall produce or present for examination the required certificate of vaccination for their animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven (7) days in which to present the certificate(s) to the police officer who made the demand. Failure to do so shall be deemed a violation of this Section. (*Section 360.02, Subd. 3(B) amended per Ordinance 99-08 dated 9-21-99.*)

**360.03. 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 (30) 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.

**360.04. Farm Animals.** Farm animals shall only be kept in an agricultural district of the City, or on a residential lot of at least ten (10) acres in size provided that no animal shelter shall be within three hundred (300) feet of an adjoining piece of property. 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 licensed show or exhibition.

**360.05. Kennels.**

**Subd. 1. Definition** The keeping of three (3) or more dogs or five (5) or more cats on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel”; except that a fresh litter of pups or kittens may be kept for a period of three (3) months before such keeping shall be deemed to be a “kennel”.

**Subd. 2. Kennels Prohibited.** Because the keeping of three (3) or more dogs or five (5) or more cats on the same premises is subject to great abuse, causing discomfort to persons of the area, by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three (3) or more dogs or five (5) or more cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City.

**360.06. 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 five (5) minutes with less than one (1) minute of interruption. Such barking must also be audible off the owner’s or caretaker’s premises. (*Section 360.06, Subd. 1 amended per Ordinance 99-08 dated 9-21-99.*)

**Subd. 2. Damage to Property.** It shall be unlawful for any owner to permit their dog or other animal to damage any lawn, garden, or other property. Any animal by this subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by a dog under this Section, against the owner of the animal for prosecution under this Section.

**Subd. 3. Animal Waste.** It shall be unlawful for any owner or caretaker of any dog or other animal to allow such animal to defecate on any property, not owned by him or her without cleaning up after the animal and disposing of the waste in a proper manner. Any animal by this subdivision may be impounded as provided for in this Section and a complaint may be issued by anyone aggrieved by a dog under this Section, against the owner of the animal for prosecution under this Section.

**Subd. 4. Other.** Any animals kept contrary to this Section are hereby declared a public nuisance and may be abated according to the law.

### **360.07. Dangerous Animals.**

**Subd. 1. Animal Presenting a Danger to the Health and Safety of the City.** If, in the reasonable belief of any person or police officer an animal presents an immediate danger to the

health and safety of any person, the officer may painlessly kill the animal. Otherwise the person or officer may apprehend the animal and deliver it to the pound for confinement. In such a case, the owner or keeper of the animal shall be liable for the cost of maintenance provided, and if the animal is destroyed, a charge periodically set by the Council to dispose 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 this Section. The animal may be released to other persons in accordance with this Section.

**Subd. 2. Animals Which May Not Be Released.** If the City Administrator finds that an animal apprehended under Subdivision 1 cannot be safely released into the community because it poses a threat to the health and safety of the City, the City Administrator may order that animal destroyed in a painless manner.

**Subd. 3. Notice to Animal Owner.** Prior to euthanizing the animal, notice shall be provided to the animal's owner by first class mail, postage prepaid, that a determination was made that the animal presents a threat to the health and safety of the City and that it will be destroyed unless the owner objects in writing to the animal's destruction within 10 days from the date of the notice and requests review of the City Administrator's decision by the animal forfeiture panel. The notice shall state the address where the animal owner must mail his or her objection. If the owner does not request review of the City Administrator's decision, the animal shall be destroyed in accordance with the notice provided to the animal's owner and the costs of euthanizing the animal and its disposal shall be assessed against the owner. Any person may waive their right to appeal in writing, and if the City receives a waiver, it may immediately destroy the animal.

**Subd. 4. Animal Forfeiture Panel.** If an appeal is requested pursuant to Subdivision 3 of this section, a committee made up of the Mayor, and one other member of the City Council and citizen appointed by the Mayor for purposes of sitting on the panel shall schedule a hearing not less than 7 nor more than 21 days after receiving notice of appeal from the animal owner.

**Subd. 5. Hearing.** At the hearing, the City Administrator shall present his basis for finding that the animal poses a threat to public safety and any other evidence, which may include live testimony by witnesses, relevant to the animal's disposition. The animal owner shall present any relevant evidence which may include live testimony by witnesses rebutting the City Administrator's findings and demonstrating the animal does not pose a threat to public health and safety. The parties shall have an opportunity to cross-examine any adverse witness.

**Subd. 6. Findings.** If the committee determines after hearing the evidence that the animal presents a threat to public health and safety, the committee shall order the animal destroyed and the costs of euthanization and disposal assessed against the animal owner. A finding by the committee that the animal is a dangerous dog as defined by

Minnesota Statutes §347.50 subd. 2 shall be sufficient to support a finding that the animal presents a threat to health and safety. If the committee determines that the animal does not present a threat to the health and safety of the City, the animal shall be released to the owner. The committee shall issue written findings summarizing the facts relied upon by the committee as the basis of their conclusion and stating the decision of the committee. A copy of the Findings shall be mailed to the animal owner at his/her last known address.

**Subd. 7. Cost of Impounding.** In all cases, an impounded animal's owner shall pay to the City the costs of impounding the animal.

**Subd. 8. Costs on Appeal.** If an animal owner appeals the City Administrator's decision to destroy an animal pursuant to Subd. 4 and the appeal panel concludes that the animal poses a threat to health and safety and orders it destroyed, the animal owner shall pay to the City an administrative fee of \$75 in addition to any other costs charged against the animal owner. (*Section 360.07 amended per Ordinance 99-08 dated 9-21-99. Section 360.07 amended per Ordinance 00-03 dated 3-7-00. Section 360.07 amended, Subd. 2 stricken and repealed and remaining subdivisions renumbered accordingly per Ordinance 07-02 dated 3-5-07.*)

### **360.08. Diseased Animals.**

**Subd. 1. Running at Large.** No person shall keep or allow to be kept on his or her premises, on premises occupied by him or her, 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 may be properly registered under this Section. (*Section 360.08, Subd. 1 amended per Ordinance 99-08 dated 9-21-99.*)

**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 police officer. A police 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, a police 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 a fine set periodically by the Council to cover the costs for disposing of the animal, plus the costs of the veterinarian examinations. (*Section 360.08, Subd. 2 amended per Ordinance 99-08 on 9-21-99.*)

**360.09. Basic Care.** All animals shall receive from their owners or keepers a 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 by this Section.

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

### **360.11. Impounding.**

**Subd. 1. Running at Large.** Any city official may impound any animal found running at large as shall give notice of the impounding to the owner of such animal, if known. In case the owner is unknown, the officer shall post notice of at the City office that if the animal is not claimed within five (5) regular business days of the posting of the notice, it will be sold or otherwise disposed of. Except as otherwise provided on 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 on the City Pound or the premises of the owner or keeper for a period of not less than fourteen (14) 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 any costs incurred by the City in caring for the animal. If the biting animal has been inoculated for rabies 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. Right to Redeem Sold Animals.** Pursuant to State law, an owner of any animal sold or placed for adoption by the City has two (2) years from the date of the sale or adoption to redeem ownership of his or her animal. In order to redeem, the owner must pay the adopter or buyer of the animal the cost paid to the City as well as a reasonable sum for the boarding of the animal until the date of redemption. (*Section 360.11, Subd. 4 amended per Ordinance 01-07 dated 9-4-01.*)

**Subd. 4. Reclaiming.** All animals conveyed to the pound shall be kept, with kind treatment and sufficient food and water, at least five (5) 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:

A. Payment of the Release Fee and receipt of a release permit from the police;

B. Payment of maintenance cost, as provided by the Pound, per day or any part of day while the animal is in said Pound; and

C. If a dog or cat is not registered, payment of the registration fee and valid certificate of vaccination for rabies and distemper shots is required.

**Subd. 5. Unclaimed Animals.** At the expiration of the five (5) regular business days for the time any animal is impounded, if the animal has not been reclaimed in accordance with the provisions of this Section, the City may let any person claim the animal by complying with all provisions in this Section, or the City may sell the animal to the University of Minnesota, or cause the animal to be painlessly killed and shall properly dispose of the remains thereof. Any monies collected under this Section shall be payable to the City Treasury. (*Section 360.11 amended, Subd. 3 stricken and repealed and remaining subdivisions renumbered accordingly per Ordinance 07-02 dated 3-5-07.*)

**360.12. Interference with Police Officers.** No person shall in any manner molest,

hinder, or interfere with any person authorized by the police department to capture any dogs, cats or other animals and convey them to the pound while engaged in such cooperation. 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 on the discharge of his or her duties under this Section.

### **360.13. Regulation of Dangerous and Potentially Dangerous Dogs.**

#### **Subd. 1. Terms.**

(a) Dangerous Dog. Dangerous dog means any dog that has (1) without provocation inflicted substantial bodily harm on a human being; (2) killed a domestic animal without provocation while off the owner's property; or (3) been found to be potentially dangerous pursuant to this subsection and bites, attacks or endangers the safety of humans or domestic animals.

(b) Potentially Dangerous Dog. Potentially dangerous dog means any dog that (1) when unprovoked inflicted bites on a human or domestic animal; (2) when unprovoked chases or approaches a person upon the public rights-of-way or upon private property other than the owner's property in an apparent attitude of attack; or (3) has a known propensity, tendency or disposition to attack humans or domestic animals.

(c) Proper Enclosure. Proper enclosure means a securely confined enclosure or locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements, not including a porch, patio, or any part of a house, garage or other structure that would allow the dog to exit on its own volition.

(d) Owner. Owner means any person, firm, corporation, organization or department possessing, harboring, keeping, having an interest in or having care, custody or control of a dog.

**Subd. 2. Determination.** Upon receipt of a citizen complaint and/or report from a city official, the City Administrator shall conduct an investigation and make a determination as to whether or not the dog complained of is a dangerous or potentially dangerous dog. Notice of this determination, after investigation shall be given to the owner of said dog and said dog shall be seized until a proper certificate of registration is obtained by the owner. All costs of impoundment and boarding shall be paid by the owner before said dog may be released to the owner. The decision of the City Administrator may be appealed to the full City Council upon request by the dog owner.

**Subd. 3. Dangerous Dogs; Registration.** No dangerous dog shall be kept by a person within the City of Blue Earth unless said dog has been properly registered and received a certificate of registration pursuant to the provisions of Minnesota Statutes Section 347.51 and Section 347.515 as amended. The fee for a certificate of registration shall be as set forth in the City fee schedule as adopted by the City Council by resolution.

**Subd. 4. Dangerous Dogs; Requirements.** No person shall keep a dangerous dog within the city limits of the City of Blue Earth unless the owner or person complies with all provisions of Minnesota Statutes Section 347.52, as amended in its entirety.

**Subd. 5. Potentially Dangerous Dogs; Registration.** If an owner of a dog has been notified by the City that it has been determined that said owner's dog has been found to be a potentially dangerous dog, said owner must obtain a certificate of

registration from the City within 14 days after showing that the owner has satisfactorily met the conditions of Minnesota Statutes Section 347.51 and Section 347.515, as amended. A fee as set forth in the City fee schedule shall be imposed for said certificate. No person shall keep a potentially dangerous dog within city limits that is not registered with the City and for which a certificate of registration has not been issued.

**Subd. 6. Confiscation.**

(a) Seizure. The City shall immediately seize any dangerous or potentially dangerous dog if after notice that the dog has been determined to be either dangerous or potentially dangerous, the owner has not validly obtained a certificate of registration from the City and/or State within 14 days of receipt of said notice.

(b) Impounding. The City may impound any dangerous or potentially dangerous dog if said dog is outside its enclosure and not under physical restraint of a responsible person, or is enclosed in an improper or poorly maintained enclosure.

**Subd. 7. Reclamation of Dog by Owner.** Any seized dog may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presentation of proof of certificate of registration. Any dog not reclaimed within seven (7) days may be disposed of by the City and the owner shall be liable for the costs incurred in disposing of the dog. (*Section 360.13 added per Ordinance 07-02 dated 3-5-07.*)

**360.14. Penalties.** Except as otherwise specified in this Section, a violation of any provision of this Section shall be a petty misdemeanor. A second violation by the same animal shall also be a petty misdemeanor offense. Any violation after the second conviction involving the same animal may be a misdemeanor at the discretion of the office of the City Attorney. (*Section 360.13 amended per Ordinance 06-11 dated 6-19-06. Section 360.13 renumbered per Ordinance 07-02 dated 3-5-07.*)

## Section 370 - Burning of Leaves

**370.01. Burning of Leaves.** The burning of leaves on private property is permitted under the following circumstances:

**Subd. 1. Dates.** Such burning of leaves will only be permitted from September 15 through December 1 only. (*Section 370.01, Subd. 1 amended per Ordinance 02-08 dated 12-16-02.*)

**Subd. 2. Observance.** A permittee shall be in constant attendance until the fire is completely extinguished.

**Subd. 3. Time.** Burning will only be allowed during the hours of 3:00 P.M. until dusk except on Saturday and Sunday burning is allowed from 12:00 P.M. to dusk. All fires shall be completely extinguished by dusk. (*Section 370.01, Subd. 3 amended per Ordinance 02-06 dated 10- 21-02 and per Ordinance 02-08 dated 12-16-02.*)

**Subd. 4. Location of Fires.** Such fires shall not be less than twenty-five (25) feet away from any structure, wood fence, hedge or brush, and not less than five (5) feet away from any property line.

**Subd. 5. Prohibitions.** The burning of leaves is prohibited on City streets, boulevards, and any public property by private citizens.

**Subd. 6. Air Pollution Alerts.** No open burning of leaves shall take place during an air pollution alert or emergency declared by the Minnesota Pollution Control Agency.

**Subd. 7. Temporary Suspension of Burning.** The Clerk-Administrator may temporarily discontinue burning during September 15 to December 1, due to unsafe conditions (i.e. excessive dryness, etc.). (*Section 370.01, Subd. 7 amended per Ordinance 02-08 dated 12-16-02.*)

**Subd. 8. Uncontrolled Burning.** The burning of leaves shall be in designated controlled areas. Uncontrolled burning of leaves is prohibited.

### 370.02. Leaf Burning

**Subd. 1. Prohibited in Certain Areas.** To protect the health of patients in the United Hospital facility within the City of Blue Earth, the burning of leaves by anyone shall be prohibited upon lands in the following area of the City of Blue Earth, Minnesota:

All properties located south of the centerline of East and West Eighth Streets from the intersection with the centerline of South Nicollet Street to the intersection with the centerline of South Gorman Street, and located east of the centerline of Nicollet Street extended to the centerline of Thirteenth Street as extended westward to intersect with the extended centerline of South Nicollet Street, and located North of the centerline of Thirteenth Street as extended from the intersection of the extended centerline of South Nicollet Street to the intersection with the centerline of South Gorman Street, and located west of the centerline of South Gorman Street from said line's intersection with the centerline of Thirteenth Street to the intersection with the centerline of East Eighth Street in the City of Blue Earth.

**Subd. 2. Penalty.** Violation of this Subsection shall be a petty misdemeanor for each day said violation occurs, punishable by a fine of up to \$300.00. (*Section 370.02 added per Ordinance 06-14 dated 9-18-06.*)

## Section 380 – Moving Buildings

### 380.01. Definitions.

**Subd. 1.** “Building” means any structure having a roof of which may provide shelter or enclosure of persons, animals, chattel, or property of any kind.

**Subd. 2.** “Removal Location” means a location in the City to which a building may be moved and on which such building is located after such moving subject to the provisions of this Section.

**380.02. House Mover’s License.** It is unlawful for any person to move, remove, raze, or hold up any building within the limits of the City without a license to do so from the State of Minnesota.

### 380.03. Building Moving Permit.

**Subd. 1. Prohibition.** It is unlawful to move any building over, along or across public right of way in the City without first obtaining a Building Moving Permit and a Building Permit if the building is to be relocated within the City from the City.

**Subd. 2. Application.** The application for a Building Moving Permit shall set forth the following information:

(a) A description of the building proposed to be moved, giving street number, construction material, dimensions, number of rooms and condition of exterior and interior, and photographs, showing ground and street elevations;

(b) A legal description of the premises from which the building is to be moved if located within the City;

(c) A legal description of the premises to which the building will be moved, if located in the City;

(d) The location of the building on the property if located in the City;

(e) The highways, streets, and alleys over, along or across which the building is proposed to be moved;

(f) The proposed moving date and hours; and any additional information which the City finds necessary to make a determination of whether a permit should be issued.

**Subd. 3. Filing Date of Application.** The application for a Building Moving Permit shall be made at least 30 days prior to the proposed moving date.

**Subd. 4. Certificate of Non-Incumbance.** The owner of a building to be moved that is located in the City shall file with the application sufficient evidence that the building and lot is free of any mortgages, liens or other encumbrances and that all real estate charges against the real property are paid in full.

**Subd. 5. Certificate of Ownership or Entitlement.** The applicant must file with the application a written statement, bill of sale, or other sufficient evidence that the applicant is the owner of the building or is entitled to move the building.

### 380.04. Deposit for Expense.

**Subd. 1. Amount.** Upon receipt of an application for a Building Moving Permit, the City will obtain an estimate of the expenses that will be incurred in removing and replacing any electric wires, street lamps or pole lines belonging to the City or any other property of the City, that will be required to be removed or replaced because of the moving of the building through the City, together with the cost of materials necessary to be used in making the removals or replacements. Prior to issuance of the permit the applicant shall deposit with the City a sum of money equal to the amount of the estimated expenses.

**Subd. 2. Expenses: Recovery.** After the building has been removed, the City will prepare a written statement of all expenses incurred in removing and replacing all property belonging to the City and of all material used together with a statement of all damage caused to or inflicted upon property belonging to the City. If any wires, poles, lamps or other property are not located in conformity with this Code, the permittee will not be liable for the cost of removing them. The City will return all deposits to the applicant after the deduction of a sum sufficient to pay for all of the costs and expenses and for damage done to the property of the City by reason of the removal of the building. Permit fees deposited with the application will not be returned.

**Subd. 3. Expenses Above Deposit.** The permittee is liable for any expenses and damages or costs in excess of deposited amounts or securities. The City may prosecute an action against the permittee in a court of competent jurisdiction for the recovery of the damages, costs or expenses.

**Subd. 4. Unsafe Premises.** If the permittee does not comply with the requirement of this Section, the City will do the work necessary to leave the original premises in a safe and sanitary condition, and the cost will be charged against the house mover's deposit.

### **380.05. Duties of City.**

- Subd. 1. Standards.** The City may not issue a permit if it is determined:
- (a) That any application requirement or any fee or deposit to the City, County, or State has not been paid, or any required utility or railroad approval not obtained, or
  - (b) That the building is too large to move without endangering persons or property in the City, or
  - (c) The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons or property in the City, or
  - (d) The building is structurally unsafe and unfit for the purpose that it is being moved.
  - (e) The applicant's equipment is unsafe and that persons and property would be endangered by its use.
  - (f) Zoning regulations or other portions of this Code would be violated by the building in its new location.
  - (g) Persons or property in the City would be endangered by the moving of the building.
  - (h) The building in its new location will not comply with any provision of

this Code.

**Subd. 2. Permit Fees.** All deposits, bonds and insurance policies will be returned to the applicant if a permit is not issued. Application fees are not refundable.

**Subd. 3. Designate Streets for Removal.** The City will designate streets, railroad crossings and bridges on which the building may be moved. The list must be approved by the Police Chief and reproduced on the permit.

### **380.06 Conditions of Permit.**

**Subd. 1. Designated Streets.** Permittees may move a building only over streets designated in the written permit.

**Subd. 2. Changes.** Permittees must notify the City in writing of a proposed change in moving date or hours.

**Subd. 3. Damage.** Permittees must notify the City of any and all damage done to property belonging to the City within 24 hours after the damage or injury has occurred.

**Subd. 4. Warning Signals.** Permittees must display warning lights on every side of the building at night and warning flags during the day while the building is being moved or standing on a street, erect and maintain barricades to protect the public from damage or injury as directed by the Police Chief.

**Subd. 5. Time Limit.** Permittees must remove the building from the City streets in the time specified in the permit.

**Subd. 6. Police Protection.** The City may bill Permittees the expense of a traffic officer to accompany the movement of the building.

**Subd. 7. Restoration of Premises.** Permittees must remove all rubbish and materials and fill all excavations to existing grade at the original building site, when located in the City, so that the premises are left in a safe and sanitary condition. (*Section 380 added per Ordinance 05-19 dated 8-15-05.*)