

CHAPTER 3 MUNICIPAL REGULATION AND LICENSING

Section 300 - General Licensing and Permit Provisions

**300.01 Licenses and Permits.**

**Subd. 1 General Rule.** Except as otherwise provided in this Code, all licenses and permits granted by the City shall be governed by the provisions of this Chapter.

**Subd. 2 Acts Prohibited.** No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use.

**Subd. 3 Application.** Every application for a license shall be made to the Clerk-Treasurer/Administrator on a form the Clerk-Treasurer/Administrator provides. It shall be accompanied by payment to the Clerk-Treasurer/Administrator of the prescribed fee. If, after investigation, the Clerk-Treasurer/Administrator is satisfied that all requirements of law and this Code have been met, the Clerk-Treasurer/Administrator shall present the application to the Council for action or, if the license or permit does not require council approval, the Clerk-Treasurer/Administrator shall issue the license or permit.

**300.02 Not Transferable.** No license issued by the City may be transferred from one person to another without permission of the Council. When the Council permits the transfer of a license, it may waive any residency requirement, but only for the required term of the license.

**300.03 Bond.** Where a bond is required for a license or permit, the bond will be a corporate surety bond executed on a form approved by the city attorney and will be filed with the Clerk-Treasurer/Administrator before the license or permit is issued. The bond will be in the amount and with the penalty provisions as required by the Code.

**300.04 Procedure for Issuance.** If, after investigation, the Clerk-Treasurer/Administrator is satisfied that all requirements of law and this Code have been met, the Clerk-Treasurer/Administrator will present the application and a report of the investigation and findings to the Council for action. If the license or permit does not require council approval, the Clerk-Treasurer/Administrator may issue the license or permit.

**300.05 License Period.** All licenses will terminate on December 31 of the year issued, unless otherwise indicated.

**300.06 Renewal.** Applications for renewal of a license will be made to the Clerk-Treasurer/Administrator on forms provided. The renewal application will contain the information required for the original application plus any additional information required by the Clerk-Treasurer/Administrator.

**300.07 Duplicates.** A duplicate license certificate or tag may be issued by the Clerk-Treasurer/Administrator to replace any license certificate or tag previously issued which has been lost, stolen, defaced or destroyed, without any wilful conduct on the part of the licensee, if the licensee files an affidavit with the Clerk-Treasurer/Administrator attesting to such fact and pays to the Clerk-Treasurer/Administrator a fee as set from time to time in the fee schedule adopted by the City Council.

**300.08 Revocation.** Any license may be revoked by the Council for a violation of the section or chapter under which it is issued. However, the revocation must follow any procedure provided in the section or chapter in question.

**300.09 Appeal.** Any person who has made an application which has been denied or not acted upon within 30 days after the application may apply directly to the Council for a license. The application to the Council shall contain the same information required in the original application, plus any additional information that the Council may require or that the applicant may feel is pertinent. The Council may grant the license, after hearing, if the requirements of this Section are substantially complied with, and in the opinion of the Council granting the license would be in the best interests of the public.

### Section 310 - Tobacco Licenses

**310.01 Purpose.** Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Section shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. §144.391.

**310.02 Definitions and Interpretations.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. The following terms shall have the definitions given to them:

**Subd. 1 Tobacco or Tobacco Products.** “Tobacco” or “Tobacco products” shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

**Subd. 2 Tobacco Related Devices.** “Tobacco related devices” shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

**Subd. 3 Self-Service Merchandising.** “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

**Subd. 4 Vending Machine.** “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine. The presence of any type of locking device, whether electronic or otherwise, which must first be deactivated by the licensee or an employee of a licensee, shall not exclude a device from being considered a vending machine for the purposes of this Section.

**Subd. 5. Individually packaged.** “Individually packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

**Subd. 6 Loosies.** “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

**Subd. 7 Minor.** “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.

**Subd. 8 Retail Establishment.** “Retail Establishment” shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the

general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

**Subd. 9 Moveable Place of Business.** “Moveable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

**Subd. 10 Sale.** A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

**Subd. 11 Compliance Checks.** “Compliance Checks” shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this Section. Compliance checks shall involve the use of minors as authorized by this Section. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

**310.03 License.** No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

**Subd.1 Application.** An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant’s residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city Clerk-Treasurer/Administrator shall forward the application to the council for action at its next regularly scheduled council meeting. If the Clerk-Treasurer/Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

**Subd. 2 Action.** The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

**Subd. 3 Term.** All licenses issued under this Section shall be valid for one calendar year from the date of issue.

**Subd. 4 Revocation or Suspension.** Any license issued under this Section may be revoked or suspended as provided in the Violations and Penalties section of this Section.

**Subd. 5 Transfers.** All licenses issued under this Section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

**Subd. 6 Moveable Place of Business.** No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Section.

**Subd. 7 Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

**Subd. 8 Renewals.** The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

**310.04 Fees.** No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license under this Section shall be as set from time to time by action of the City Council.

**310.05 Basis for Denial of License.** The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
- C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

**310.06 Prohibited Sales.** It shall be a violation of this Section for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, except as may otherwise be provided in this Section.
- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or the licensee's employee, and the customer.
- D. By means of loosies as defined in subsection 310.02 of this Section.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
- F. By any other means, to any other person, in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

**310.07 Vending Machines.** It shall be unlawful for any person licensed under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.

**310.08 Self-Service Sales.** It shall be unlawful for a licensee under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this Section is adopted shall comply with this Section within thirty (30) days.

**310.09 Responsibility.** All licensees under this Section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State or Federal law, or other applicable law or regulation.

**310.10 Compliance Checks and Inspections.** All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

**310.11 Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this Section.

**Subd. 1 Illegal Sales.** It shall be a violation of this Section for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor,

**Subd. 2 Illegal Possession.** It shall be a violation of this Section for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

**Subd. 3 Illegal Use.** It shall be a violation of this Section for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

**Subd. 4 Illegal Procurement.** It shall be a violation of this Section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this Section for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

**Subd. 5 Use of False Identification.** It shall be a violation of this Section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

**310.12 Violations.**

**Subd. 1 Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

**Subd. 2 Hearings.** If a person accused of violating this Section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

**Subd. 3 Hearing Officer.** The City shall appoint a hearing officer of panel, which may be the City Council, to conduct all hearings requested under this subsection.

**Subd. 4 Decision.** If the hearing officer determines that a violation of this Section did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under Subsection 320.13 of this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

**Subd. 5 Appeals.** Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

**Subd. 6 Misdemeanor Prosecution.** Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Section.

**Subd. 7 Continued Violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

**310.13 Penalties.**

**Subd. 1 Licensees.** Any licensee found to have violated this Section, or whose employee shall have violated this Section, shall be charged an administrative fine of \$75 for a first violation of this Section; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 for a third or subsequent offense at the same location within a twenty-four month period. In addition, upon the third and any subsequent offense, the license shall be suspended for not less than seven days.

**Subd. 2 Other Individuals.** Other individuals, other than minors regulated by subdivision 3 of this Subsection, found to be in violation of this Section shall be charged an administrative fee of \$50.

**Subd. 3 Minors.** Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an alternative penalty as approved by the Council following consultation with interested parties of the courts, educators, parents, and children.

**Subd. 4 Misdemeanor.** Nothing in this subsection shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this Section.

**310.14 Exceptions and Defenses.** Nothing in this Section shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this Section for a person to have reasonably relied on proof of age as described by State law.

**Section 320 - Peddlers**

**320.01 Definitions.** For the purposes of this Section the words defined in this section have the meanings ascribed to them.

**Subd. 1 Peddler.** Any person with no fixed place of business who goes from house to house carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers of the same.

**Subd. 2 Solicitor.** Any person who goes from house to house soliciting or taking or attempting to take orders for (1) the purchase of any goods, wares, or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for delivery in the future, or (2) services to be performed then or in the future.

**320.02 License Required.** No , peddler, hauler, or transient merchant of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants shall enter a private residence of the City for the purpose of , or for the purpose of disposing of or peddling or hauling of goods, wares, and merchandise, , without first obtaining a license.

**320.03 Application.** Before any license shall be issued to any person to vend, sell, hawk, or peddle goods, the person desiring such license shall file a written application with the Clerk-Treasurer/Administrator. Said application shall show:

- A. The name of the applicant and the persons associated with the applicant in the business;
- B. Type of business for which the license is desired;
- C. The length of time for which said license is to be desired;

D. A general description of the thing or things to be sold;

E. The present place of business of the applicant.

**320.04 Issuance Fee.** Every application for a license under this Section shall bear the written approval of the city chief of police or mayor after an investigation of the moral character of the applicant. When the applicant presents to the Clerk-Treasurer/Administrator an application in proper form for any business not prohibited by law, the applicant shall pay the fee set by ordinance or resolution from time to time adopted by the Council to cover the cost of said application.

**320.05 Exclusion by Placard.** Any resident of the City who wishes to exclude peddlers or solicitors from premises the resident occupies may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." Such placard shall be at least three and three-quarters inches long and three and three-quarters inches wide and the printing shall not be smaller than 48-point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained.

**320.06 Defacing Placard.** No person other than the person occupying such premises shall remove, injure, or deface such placard or sign.

### Section 330 - Temporary Business

**330.01 License Required.** It shall be unlawful for any person, firm, or corporation, hereafter to engage in the business of selling goods or merchandise at retail in the City for a temporary or limited period of time without first having obtained a license therefor as provided in this Section, provided however, that this Section shall not apply to any person, firm, or corporation whose stock of goods so offered for sale, or the capital invested in such goods, has been duly assessed for taxation in the year in which such goods are offered for sale, and provided further, that this Section shall not apply to any person, firm, or corporation who intends to engage in any business or occupation, for which license to conduct is governed by the statutes or laws of the State of Minnesota.

**330.02 Application.** Any person, firm, or corporation so desiring to enter into the business of selling goods or merchandise for a temporary or limited period of time in the City, shall apply in writing to the Council for a license therefor, setting forth in the application.

A. The name of the person, firm or corporation desiring such license and the place where said business is to be conducted.

B. The nature, kind and amount of goods to be offered for sale and the value of the stock of goods so to be offered for sale.

C. The time for which said license is desired.

**330.03 Fees.** The license fee for temporary sales shall be as set from time to time in the fee schedule adopted by the Council.

**330.04 Penalties.** Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding One Hundred Dollars (\$100.00) and costs of prosecution, or by imprisonment in the county jail not exceeding ninety days or until such fine and costs are paid, and in all prosecutions for a violation of this ordinance proof that the stock of goods from which sales may have been made or the capital invested in such stock, has not been assessed for taxation during the year in which such sales were made in the City of Eagle Bend, shall be prima facie evidence that the same has not been listed or assessed for taxation.

#### **Section 340 - Circuses, Theatrical Performances, Amusements, Shows and Exhibitions**

**340.01 License Required.** No person except a local school, lodge, society, or charitable organization, none of which are organized or maintained for profit, shall hold, promote, advertise for, or otherwise engage in offering or opening to the public a circus, theatrical performance, amusement, show, or exhibition without first obtaining from the Council a license.

**340.02 Fee.** The license fee shall be as set by ordinance or resolution determined by the Council.

**340.03 Application.** Any person or persons desiring to engage in activities regulated under this Section shall make application for the license on a form furnished by the Clerk-Treasurer/Administrator. The application shall set forth the name and address of the person, persons, committee, or organization which is to conduct the regulated activity; state the times and places where the activities are to be held or conducted, and state the nature of the activity for which the license is sought. The application shall also contain such other information as is reasonably requested by the Clerk-Treasurer/Administrator. If the license is issued, the license shall be posted in a conspicuous place on the premises at which the activity is conducted.

**340.04 Deposit Required.** As a condition for the issuance of a license, the applicant shall deposit with the Clerk-Treasurer/Administrator the deposit fee as set by the Council, dedicated to cleaning up and restoring the area used to its state existing prior to the commencement of the activity licensed. The licensee shall have a period of 24 hours following the termination of the activity within which to clean up and restore the area or premises. The Clerk-Treasurer/Administrator or other authorized personnel of the City may examine the area to see if the conditions of this Section have been complied with. Upon compliance, the Clerk-Treasurer/Administrator shall refund the deposit fee. The refusal of

or failure by the licensee to comply with the conditions of this Section shall constitute a release of any claim to the deposited sum by the licensee, and the sum shall be forfeited to the City for the purposes of cleaning up and restoring the area or premises. Any balance remaining shall be deemed liquidated damages forfeited to the City for failure to comply with this Section.

### Section 350 - Dogs and Cats

**350.01 Definitions.** As used in this Section, the following words and phrases shall have the following meanings:

**Subd. 1 Owner.** Owner shall mean any person, firm or corporation owning, harboring or keeping a dog or dogs, a cat or cats.

**Subd. 2 At Large.** At large shall mean when a dog or cat is off the property of the owner and not otherwise restrained or confined.

**Subd. 3 Custodian.** The custodian of a dog or cat shall be any person who has custody of any dog or cat or permits a dog or cat to be kept or to stay on or about the his or her premises, but is not the animal's owner.

**Subd. 4 Dog.** Dog shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

**Subd. 5 Cat.** Cat shall be intended to mean both the male and female of the feline species commonly accepted as domesticated household pets.

(Am. Ord. 13-06-17-01, passed 6-17-13)

### **350.02 Running at Large.**

**Subd. 1 Prohibition.** It shall be a violation of this section to allow any dog or cat to run at large.

**Subd. 2 Penalty.** The owner of any dog or cat found to be running at large shall be subject to the following process and penalties:

A. The owner will be issued a dated, written warning, setting forth the details of the violation and the animal description.

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B. If a dog or cat belonging to the same household is again running at large within thirty days of the warning letter, a citation shall be issued.

C. If after a citation has been issued, another violation occurs within thirty days, another citation shall be issued.

D. If more than thirty days has passed since the issuance of a warning or citation, a written warning shall be sent and the process started over.

It shall be a petty misdemeanor, punishable by up to a \$300 fine or the maximum permitted by law, for any violation of this section for which a citation is issued; provided, that if four citations have been issued to a household within a twelve-month period, then any subsequent violation shall be a misdemeanor.

(Am. Ord. 13-06-17-01, passed 6-17-13)

**350.03 License Required.** No dog owner shall keep any dog over the age of three (3) months within the City unless a license and rabies shot has first been secured for the dog. The license shall be in the form of a metal tag. It shall be unlawful for any person to counterfeit or attempt to counterfeit the tag, or to place a tag any dog except the dog for which the tag was issued.

**350.04 Application.** The owner or custodian of any dog over the age of three months in the City shall apply to the Clerk-Treasurer/Administrator for an identification tag for each dog, and every applicant shall describe the dog and give its name, and shall provide proof that the dog has a current vaccination for rabies pursuant to accepted State guidelines.

**350.05 Fees.** Each application shall be accompanied by a tag fee as set in the fee schedule adopted from time to time by the council. If the license is denied, the fee shall be refunded to the applicant. No refund shall be due by reason of the death of the dog nor removal of the dog from the corporate limits of the City. All fees and applications shall be due on or before June 1 of each year, or upon acquiring ownership of any unlicensed dog of a dog over three months of age, or within thirty days of the dog turning three months of age, or within sixty (60) days of establishing residency within the city.

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shall, at least once before June 1 of each year, have notice of the necessity to pay the license fee on or before June 1 of each year, published in the official newspaper of the City.

(Am. Ord. 06-04-17-01, passed 4-17-06)

**350.06 Issuance.** The Clerk-Treasurer/Administrator shall, if no reason exists to believe such tag should be refused, issue to the applicant the original copy of a numbered receipt made in duplicate and a metal tag bearing the same number. If the Clerk-Treasurer/Administrator shall have reason to believe that the tag should not be issued, the application shall be referred to the Council who shall determine whether the tag shall be issued. The Clerk-Treasurer/Administrator shall file and preserve the applications for tags and a record for all tags issued.

**350.07 Transferability.** All licenses issued shall be non-transferable and shall be for identification purposes only.

**350.08 Expiration.** Licenses shall expire on the 31st day of May next following their issuance. (Am. Ord. 06-04-17-01, passed 4-17-06)

**350.09 Collars, Duplicate Tags.** The metal tag issued shall be of a distinctive shape and material and shall be of a different shape or color each year. The tag shall be attached or appended to a collar worn about the neck of the dog. In case a tag is lost, a duplicate may be issued by the Clerk-Treasurer/Administrator and a charge of \$2.00 shall be made for each duplicate tag upon the original application.

**350.10 Rabies Shots Required.** It shall be unlawful for any person to own, possess, or harbor a dog within the City, if the dog has not had a vaccination for rabies within thirty days of the expiration of a vaccine pursuant to standard veterinary practices adopted by the State, or within thirty days of the dog reaching the age of three months, or within sixty days of the owner or custodian moving the dog into the city if the dog has not been properly vaccinated at that time.

**350.11 Dogs in Heat.** Any female dog in heat shall be kept confined indoors, or impounded for the duration of her season (Oestrus cycle) in a commercial dog kennel, the cost of which shall be borne by the owner.

**350.12. Impounding.**

**Subd. 1 Authority.** The poundmaster of the pound designated as the official city pound, and every police officer of the City, shall impound any dog found unlicensed or any dog or cat found running at large.

**Subd. 2 Notice.** Notice of the impoundment shall be provided to the dog's or cat's owner, if known. The notice shall include the owner's right to reclaim the dog or cat within five regular business days, excluding Holidays and Sundays, of the impoundment and that the dog or cat may be destroyed if not reclaimed. In addition,

notice of the impoundment shall be posted on the official bulletin board of the City The notice shall be in the following form:

Notice of Impounding Dog or Cat

Date: \_\_\_\_\_, \_\_\_\_\_  
To Whom it May Concern:

I have this day taken up and impounded in the pound of the City at \_\_\_\_\_, a dog / cat answering to the following description:

Sex \_\_\_\_ Color \_\_\_\_\_ Breed \_\_\_\_\_  
Approximate Age \_\_\_\_\_ Name (if known) \_\_\_\_\_  
Owner (if known) \_\_\_\_\_

Notice is hereby given that unless said dog / cat is claimed and redeemed on or before \_\_\_ o'clock \_ M. on the \_ day of \_\_\_\_\_, \_\_\_\_\_, the same will be sold or humanely disposed of.

Signed \_\_\_\_\_  
Impounding Officer

**Subd.3 Redemption.** Any dog or cat may be redeemed from the pound by the owner within the time stated in the notice by payment to the City Clerk-Treasurer/ Administrator of the annual license fee if the dog is unlicensed, and all costs of impoundment and keeping of the dog or cat, plus any penalty as provided by this Chapter. Upon presentation of an appropriate license tag and a receipt for payment of all fees, the poundmaster shall release the dog or cat to the owner.

**Subd. 4 Impounding Fees and Penalties.** Any owner or custodian seeking to reclaim a dog or cat that has been impounded shall pay the impounding fees as set from time to time in the fee schedule adopted by the Council, in addition to any licensing fee and the cost of impoundment and maintenance.

**350.13 Disposition of Unclaimed Dogs and Cats.** Any dog or cat which is not claimed as provided in Subsection 350.12 may be sold to any interested person for not less than the amount of the costs of impounding and keeping the dog or cat in the pound. All sums received above the cost of impoundment and maintenance shall be held by the City Clerk-Treasurer/Administrator for a period of sixty (60) days for disbursement to the former owner of the dog or cat if so claimed. After sixty (60) days, the funds shall be placed in the general fund of the City. Any dog or cat which is not claimed or sold shall be humanely destroyed by the poundmaster.

**350.14. Establishment of Pound.** The Council shall designate as the city pound any place as shall be appropriate for the boarding and keeping of any dog or cat which is impounded under this Section. The proprietor of the place designated as the official city pound shall serve as the poundmaster and shall attend to the maintenance of the pound, presenting proper claims to the City each month for the necessary expenses incurred in the operation of the pound for the City. The claims shall be reviewed by the Clerk-Treasurer/Administrator and if approved by the Council, paid.

**Section 360 - Animal Nuisances**

**360.01 Acts Considered a Nuisance.** The owner or custodian of any domestic animal shall prevent the animal from committing in the City any act which constitutes a nuisance. It is a nuisance for any animal to habitually or frequently chase vehicles, to molest or annoy any person away from the property of the animal's owner or custodian, or to damage, defile or destroy public or private property. It shall be unlawful for any owner or keeper of an animal to permit or allow the animal to roam or engage in activities which otherwise constitute a nuisance. Failure of the owner or custodian to prevent the domestic animal from committing a nuisance is a violation of this section. Upon receipt of at least four (4) written complaints from citizens, or two (2) reports made by any police officer, relating to any of the prohibited activity, the animal shall be presumed to habitually or frequently engage in prohibited activity.

**360.02 Disturbing Peace.** No person owning, operating, having charge of, or occupying, any building or premise shall keep or allow to be kept, any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a five-minute period of time with one minute or less lapse of time between each animal noise during the five minute period.

**360.03 Impounding Animals.**

**Subd. 1 Seizure.** The police, or any other duly appointed person, may take and impound any animal which is not being kept, confined, or restrained in a manner consistent with the requirements of this Section. The police or duly appointed person may enter upon private premises where it appears that there is reasonable cause to believe that an animal is not being kept, confined, or restrained as required in this Section.

**Subd. 2 Notice to Owner.** Immediately upon the impounding of an animal wearing a current license tag, the police shall make every reasonable effort to notify the owner or custodian of the impoundment, and of the conditions whereby the owner or custodian may regain custody of the animal. Verbal notice shall be immediately confirmed in writing by the police.

**Subd. 3 Reclaiming Impounded Animal.** Any animal impounded may be reclaimed by the owner or harbinger within five regular business days after receiving notice of the impoundment, excluding Saturdays, Sundays, and legal holidays, upon payment to the Clerk-Treasurer/Administrator of an impounding fee as set from time to time by action of the Council, together with the actual costs incurred for boarding. If the animal being reclaimed has no license, and a license is required, a license shall be issued, and the fee for the license paid prior to the release from impoundment.

**Subd. 4 Animals Which Cannot be Impounded.** If an animal is rabid, or otherwise diseased, vicious, or dangerous, and cannot be impounded after a reasonable effort or without serious risk to the impounder or others, the animal may be immediately killed.

**Subd. 5 Selling of Impounded Animals.** If an impounded animal has not been reclaimed within the required time, or if the owner cannot be located, then within five days, the person in charge of the pound shall give three days notice of the time and place where the animal will be sold by posting notices in the office of the person in charge of the pound, the office of the Clerk-Treasurer/Administrator, and in a conspicuous place at the pound. Should the person in charge of the pound be unable to sell the animal, for want of bidders or otherwise, it shall be lawful for that person to sell the animal without notice, and dispose of it.

**360.04 Biting Animals.** Whenever any dog or animal has bitten a person, the owner or custodian of the dog or animal, having been so notified, either orally or in writing, shall immediately quarantine the dog or animal at the owner's home or other suitable place of confinement, as directed by the responsible officer of the City for a period of 14 days after the occurrence. During the quarantine period, the animal shall be securely confined in a building or in a yard enclosed by a fence constructed so that the animal cannot escape or otherwise leave the enclosure. The enclosure shall not permit other animals or persons to enter, and shall prevent the animal from biting or otherwise coming in contact with persons or other animals. Upon a reasonable suspicion that the dog may be rabid, the dog shall be subjected to the necessary tests by a doctor of veterinary medicine for the purpose of determining if it is infected with rabies. The confinement, testing, treatment, in addition to all other expenses incurred as the result of a dog biting a person shall be the expense of the owner of the animal.

**360.05 Limitations.** No person shall be permitted to keep or harbor more than two dogs or cats on any one premises unless the existing zoning ordinance provides for and allows a kennel. Dogs and cats less than twelve weeks of age shall not count against this limitation. No person shall harbor, maintain or keep any other variety of animals in any number in any conditions so as to cause a health hazard, public nuisance, or which results in any unsanitary, inhumane or unlawful condition. Permission to obtain additional animals may be petitioned through the Chief of Police and/or City Administrator/Clerk, with an opportunity to appeal through the City Council.

(Ord. 13-06-17-01, passed 6-17-13)

### Section 370 - Livestock, Poultry, Fowl, and other Animals

**370.01 Definitions.** As used in this Section the following terms are defined as follows:

**Subd. 1 "Farm Animals"**. Farm animals shall be intended to include any horse, mule, donkey, pony, cattle, sheep, goat, swine (including pot-bellied pigs), rabbit, chicken, geese, duck, turkey or any other similar animal or bird.

**Subd. 2 "Non-Domesticated Animals"**. Non-domesticated animals shall mean any animal, reptile or fowl, which is not naturally tame or gentle but normally is wild in nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property including but not limited to the following:

- A. Any skunk, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies;



- B. Any large cat of the family Felidae such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats;
- C. Any member of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs;
- D. Any poisonous viper, or any constrictor;
- E. Ferrets; and
- F. Any other animal which is not listed explicitly above, but which can be reasonably defined by the terms of this Section including but not limited to, bears and badgers.

**Subd. 3 "Owner"**. Any person, persons, firm or corporation having in their possession an animal as defined in Subdivisions 1 and 2 or any person, persons, firm or corporation having the possession or control of any land or premises whatsoever within the city.

**370.02 General Prohibition.** No owner or custodian as defined in this Chapter shall, except if in transit, have in possession, keep, raise, maintain or otherwise shelter or harbor any animal as defined in Subsection 370.01 above, within the city except as otherwise allowed in this Section.

**370.03 Exceptions.**

**Subd. 1 Farm Animals.** Farm animals as defined in Subsection 370.01 shall not be kept in the city except:

- A. The property upon which the farm animal is kept abuts the city limits;
- B. The property contains at least two acres for each farm animal kept on the property;
- C. Each farm animal has an enclosure that is covered by a roof, bounded by four walls, and measures at least 200 square feet;
- D. The farm animal does not create noise or odor that becomes a nuisance to neighboring property owners;
- E. All farm animal waste is removed from the property on a weekly basis; and
- F. The area where the farm animal is kept must be adequately fenced as determined by the City Administrator or Police Chief.

## Livestock, Poultry, Fowl, and other Animals

G. The provisions of Subd. 1, B. shall not apply to chicken, geese, duck, turkey, or any other similar sized bird.

**Subd. 2 Temporary Permits.** The Council may grant temporary permits for a period not to exceed 6 months for the keeping of animals within the city for use in connection with an exhibition or seasonal display defined in this Section provided that the Council finds that such animals are not likely to be dangerous, that they will be kept in safe and sanitary surroundings, that they will not be maintained in an inhumane manner or be subject to any inhumane treatment and that their presence on the premises will not be a source of nuisance or annoyance to the occupants of adjacent property. In granting such permit, the Council may impose limitations on the permit to insure that such animals will be kept under such conditions. Any such permit shall be subject to immediate suspension by the city's building inspector if he determines that such animals constitute a safety or sanitary hazard, are being subjected to inhumane treatment or conditions or are a source of nuisance, or are being kept in violation of any other limitations imposed by the Council; which such suspension shall remain in effect until the next subsequent meeting of the Council. At such meeting the Council may revoke such permit or may reinstate the same subject to such limitations as the Council shall deem necessary. The fee for such a permit shall be as set from time to time by action of the Council.

**Subd. 3 Cages.** Non-poisonous or constricting snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, or lizards, and similar small animals capable of being maintained continuously in cages are also exempt and do not require a permit.

**Subd. 4 Zoos.** Persons keeping animals for a public zoo as volunteers, docents or otherwise, any bona fide research institution or veterinary hospital are exempt from the permit requirement; provided protective devices adequate to prevent such animals from escaping or injuring the public are provided.

**Subd. 5 Household Helpers.** Handicapped persons keeping monkeys trained as household helpers are exempt from the permit requirement.

(Ord. 14-05-19-01, passed 7-16-18)

**370.04 Selling Prohibited.** No person shall offer for sale, within the city limits, any animal prohibited in Subsection 370.01.

**370.05 Impounding of Non-Domesticated Animals.** Any animal as defined in Subsection 370.01 kept in violation of this Section may be impounded by the city, and, after being so impounded for ten (10) days or more without being reclaimed by the owner, may be destroyed, sold, or otherwise disposed of. Any person reclaiming any such impounded animal shall pay the costs of impounding and keeping the same.

**370.06 Existing Non-Domesticated Animals.** Any non-domesticated animal which is being kept or maintained at the time this code is enacted may be impounded if the keeping or maintaining of said non-domesticated animal is determined by the Council to be a threat to the public health, safety and general welfare. The person or persons keeping or maintaining any non-domesticated animal that has been determined by the Council to be a threat to the health, safety and general welfare shall have ten (10) days in which to comply with the provisions of this Section. Extensions beyond ten (10) days may be granted for just cause by the Council.

## **Section 375 - All-Terrain Vehicles**

**375.01 Statutory Application.** The laws of the State of Minnesota as set forth in Minn. Stat. §§ 84.81 through 84.928 and Chapter 169 are adopted in full. The definition of "**all-terrain vehicle (ATV)**" for purposes of this section shall be the same as that set forth at Minn. Stat. § 84.92. (Ord. 08-07-21-03, passed 7-21-08)

**375.02 Definitions.** For the purposes of this chapter, the following definitions are applicable or, the words, combination of words, terms or phrases used in this chapter and defined in Minn. Stat. §§ 84.82 through and 84.92, shall have the meanings given them by that section.

**Subd. 1 "All-terrain vehicle" or "ATV".** A motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and includes a "**class 1 all-terrain vehicle**" and a "**class 2 all-terrain vehicle**".

A. "**Class 1 ATV**". An ATV that has a total dry weight of less than 900 pounds.

B. "**Class 2 ATV**". An ATV that has a total dry weight of 900 to 1,500 pounds.

**Subd. 2 "Private property".** All lands other than public.

**Subd. 3 "Public property".** Lands owned by or controlled under easement to the United States, the state or any political subdivision thereof.

(Ord. 08-07-21-03, passed 7-21-08)

**375.03 Regulations.** The following regulations shall apply to the operation of all ATVs operated within the City:

**Subd. 1 Operation of ATVs.** It shall be unlawful to operate an ATV in the City upon any streets, avenues, sidewalks, boulevards, parks, golf courses, parking lots, alleys, school grounds, or other public or private property, except as provided in this section.

**Subd. 2 General Requirements.** At any time an ATV is used in the City, the following requirements shall be observed:

- A. **Speed.** Unless posted otherwise, no ATV shall be operated at a speed in excess of 15 miles per hour on the streets. Speed in alleys shall not exceed ten miles per hour.
- B. **Age.** All operators of ATVs must be 16 years of age or older.
- C. **Insurance and Registration.** All ATVs must be insured and registered.
- D. **Safety Equipment.** All ATVs must have applicable safety equipment provided by law.
- E. **Noise.** No ATV shall be operated in a manner so as to create a loud, unnecessary, or unusual noise which disturbs, annoys, or interferes with the peace and quiet of other persons.
- F. **Single File Traffic Only.** ATVs traveling in the same direction must travel in single file.

**Subd. 3. Permitted Uses.** When the operation is in compliance with all other provisions of this section, ATVs may be operated in the following situations:

- A. **Private Property.** Between the hours of 6 a.m. and 10 p.m., ATVs may operated on private property, provided that the owner has given specific permission to the operator of the ATV.
- B. **Public Streets.**
  - 1. ATVs may utilize the public streets only when the ATV is being driven from the normal place of domicile to work locations, utilizing the most direct route, during daylight hours for purposes of:
    - a. Mowing and fertilizing lawns.
    - b. Spraying weeds.
    - c. Other uses, when used as the power unit.
  - 2. To utilize an ATV for the purposes of this subsection, the ATV must have specifically designed equipment which is mounted on, or towed by, the ATV utilizing a rigid hitch system and the ATV is used as the power unit on the job site.

- C. **Snow Removal.** For the purposes of plowing or blowing snow only, ATVs may be driven on streets, alleys and sidewalks at any hour within a 24-hour time frame after the snowfall is finished.
- D. **Official Use.** This section shall not apply to law enforcement agencies, and fire and rescue personnel, while in the performance of their official duties.
- E. **Emergencies.** ATVs may be utilized in emergencies when and at locations where travel by automobile is impractical.
- F. **Handicapped Persons.** Nothing in this section shall be constructed to prevent handicapped or disabled persons from utilizing an ATV or similar vehicle as a mode of ordinary conveyance in the City.

(Ord. 08-07-21-03, passed 7-21-08)

**375.04 Liability and Defenses.** It shall be unlawful for the registered owner of an ATV to allow it to be operated contrary to this section or governing state law.

**Subd. 1 Defenses.** The registered owner of the ATV may not be prosecuted and punished if:

- A. The ATV was reported as stolen to the Commissioner of Natural Resources or a law enforcement agency at the time the alleged unlawful conduct occurred;
- B. The registered owner demonstrated that the ATV either was stolen or was not in use at the time of the alleged unlawful conduct; or
- C. The registered owner furnishes to law enforcement officer upon request the identity of the person in actual physical control of the ATV at the time of such unlawful conduct.

**Subd. 2 Liability of Lessors.** This section shall not apply to any person who rents or leases ATVs if such person keeps a record of the name and address of the person or persons renting or leasing the ATV, the registered number thereof, the departure date and time and expected time of return.

**Subd. 3 Both Owner and Operator May Be Liable.** The prosecution of the owner of an ATV under this section shall not operate to limit or bar the prosecution of the ATV operator for violations of this section or applicable Minnesota Statutes.

(Ord. 08-07-21-03, passed 7-21-08)

**375.05 Violations.** A violation of this section shall be a misdemeanor, subject to the maximum penalties provided by law for misdemeanors.

## Penalties

**Subd. 1 Excessive Speed.** A violation of 370.03, Subd. 2A (excessive speed) shall be a petty misdemeanor, subject to the penalties provided by law for petty misdemeanors.

**Subd. 2 Other Offenses.** A violation of any other subdivision of this section shall be a misdemeanor, subject to the penalties provided for misdemeanors.

(Ord. 08-07-21-03, passed 7-21-08) Penalties, see Section 380

### Section 380 - Penalties

**380.01 Penalties.** Unless otherwise provided, any person, firm or corporation who violates any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment of up to ninety days, a \$1,000 fine, plus all costs of prosecution as permitted by law. Each day's violation shall constitute a separate offense.

(Am. Ord. 13-06-17-01, passed 6-17-13)

**380.02 Revocation of License or Permit.** The failure of any owner to comply with the requirements of this Chapter shall constitute grounds for the immediate revocation of any license or permit issued under this Chapter.