

CHAPTER 3 MUNICIPAL REGULATIONS AND LICENSING

SECTION 300 - GENERAL LICENSING AND PERMIT PROVISIONS

300.01 PURPOSE AND CONSTRUCTION. This Chapter is hereby adopted so as to protect the inhabitants of the City of Backus from dangerous, fraudulent, unauthorized and unregulated business practices. The provisions contained in this Chapter shall be construed so as to effectuate this purpose.

300.02 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 State or Federal law, or by 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 on a form provided by him or her. It shall be accompanied by payment to the Clerk-Treasurer of the prescribed fee. If, after investigation, the Clerk-Treasurer is satisfied that all requirements of law and this code have been met, he or she shall present the application to the Council for action or, if the license or permit does not require Council approval, the Clerk-Treasurer shall issue the license or permit. If the Clerk-Treasurer determines that the application is incomplete, he or she shall notify the applicant of the missing essential information required to determine whether or not the license or permit can be issued.

300.03 BOND OR INSURANCE. When a licensee or permittee is required to have in force a policy of insurance or to post a bond, the policy or bond shall be approved as to substance and form by the City Attorney, and shall be filed with the City Clerk-Treasurer.

300.04 FEES.

Subd. 1 Fee Established. License fees shall be in the amounts established in the governing sections of this chapter or as otherwise provided in this code or as adopted from time to time by Council resolution .

Subd. 2 Prorated Fees. License fees shall not be prorated unless otherwise specified by this Code or by law.

Subd. 3 Refunds. License fees shall not be refunded in whole or in part unless otherwise specified by this Code or by law.

Subd. 4 Waiver. Notwithstanding any other provisions, non-profit or civic organizations desiring to conduct activities for which a license is required may be granted such license without paying the prescribed fee. Such licenses may be granted according to the discretion of the Council.

300.05 DURATION OF LICENSE. Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31.

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

300.07 DUPLICATES. A duplicate license certificate or tag may be issued by the Clerk-Treasurer 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 attesting to such fact. The replacement of a license certificate or tag may be subject to payment of a fee to be established by resolution of the Council.

300.08 DISPLAY OF LICENSE. The licensee shall display the license or other insignia given him or her as evidence of the license in a conspicuous place on the premises, vehicle, or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever he or she is carrying on the licensed activity.

300.09 TRANSFERS. No license issued under this Code may be transferred to any other person without permission of the Council. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Council or other licensing authority.

300.10 SUSPENSION OR REVOCATION. The Council may suspend for a period not exceeding 60 days or revoke any license or permit for violation of any provision of law, ordinance, or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law without notice and hearing and except where suspension may be made without a hearing, the holder of the license or permit shall be granted a hearing upon at least ten-days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

300.11 APPEAL. Any person who has made 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 - PER DIEM LICENSES

310.01 LICENSE REQUIRED. Certain businesses and activities intended to be regulated in promotion of the purpose of this Chapter are hereby recognized to be transient in nature. Such business as shall be specified by the Council shall be required to obtain a "per diem" license subject to this Section.

310.02 DURATION. Licenses granted under this section shall be valid from 12:01 a.m. and expire 12:00 midnight each day. A new license shall be required for each day the business or activity shall be in operation within the City.

310.03 COVERED BUSINESSES AND LICENSE FEES. A per diem license shall be required for the following businesses and the daily fee shall be as specified;

(A) Circuses, menageries: \$100;

(B) Small shows and exhibitions in separate tents or enclosures, whether connected with a circus or menagerie or otherwise: \$25;

(C) Theatrical, operatic, concert, minstrel and similar shows and performances not otherwise enumerated: \$10 each performance.

SECTION 320 - CIGARETTES, CIGARETTE WRAPPERS, TOBACCO

320.01 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 in regard to preventing young people from starting to smoke as stated in M.S. § 144.391.

320.02 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 Compliance Checks. “Compliance Checks” shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, or 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, or tobacco related devices.

Subd. 2 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. 3 Loosies. “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 4 Minor. “Minor” shall mean any natural person who has not yet reached the age of 18 years.

Subd. 5. 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. 6. Retail Establishment. “Retail Establishment” shall mean any place or 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. 7 Sale. A “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 8 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 products, or tobacco related devices between the customer and the licensee or employee, self-service merchandising shall not include vending machines.

Subd. 9 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. 10 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. 11 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 forms of payment directly into the machine by the person seeking to purchase the tobacco, tobacco products, or tobacco related devices.

320.03 LICENSE. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related devices 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 shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk-Treasurer 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. If the Council shall approve the license, the Clerk-Treasurer shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

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 30 days, but no more than 60 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.

320.04 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 established by resolution of the City Council.

320.05 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 a violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco, 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 12 months of the date of the 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.

(F) The applicant or proposed business location is in violation of any local ordinance(s).

320.06 PROHIBITED SALES. It shall be a violation of this section for any person to sell or offer to sell any tobacco, tobacco products, or tobacco related devices:

(A) To any person under the age of 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 products, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco products, or tobacco related device between the licensee or the licensee's employee, and the customer.

(D) By means of loosies as defined in Section 320.02.

- (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, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

320.07 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 unless minors are at all times prohibited from entering the licensed establishment.

320.08 SELF-SERVICE SALES. Except as otherwise provided, it shall be unlawful for any person licensed under this section to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to such items without having to request the items from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco products, or tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, or 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 30 days.

Self-service sales shall be permitted in those stores that prohibit access to minors and generate 90% or more of their revenues from the sale of tobacco, tobacco products, or tobacco related devices.

320.09 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.

320.10 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 written consent of their parents or guardians, minors over the age of 15 years but less than 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.

320.11 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 products, 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 products, 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 products, 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 products, 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 products, 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.

320.12 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 Hearing. 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 Clerk-Treasurer shall serve as the hearing officer.

Subd. 4 Decision. If the hearing officer determines that a violation of this section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 320.13, 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 at the County District Court in Walker, Minnesota, the jurisdiction 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. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

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

320.13 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 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

Subd. 2. Other Individuals. Other individuals, other than minors regulated by Subd. 3 of this section, 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 or tobacco related devices shall be required to complete tobacco related education classes, diversion programs, community services, or other penalty.

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

320.14 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 330 - BINGO

330.01 STATUTE INCORPORATED. The provisions of Minnesota Statutes, Chapter 349 relating to the game of bingo are adopted and made part of this Section as if set out in full. In addition, the regulations of this Section apply to the conduct of bingo within the City.

330.02 LICENSE REQUIRED. The unlicensed conduct of bingo within the City is prohibited. An organization may conduct bingo within the City limits only when properly licensed or otherwise authorized by law. Organizations not required to be licensed under Minnesota Statutes, Chapter

469 shall receive a permit from the City before conducting bingo within the City. No license or permit shall be required for social bingo games where no entry fee is charged and no prizes are awarded.

330.03 APPLICATION. The application for a permit, or for City approval of a State license, shall state where the games will be played and the dates and hours for which permission to play the games is requested. The application shall be verified by a duly authorized officer of the organization and by the designated bingo manager. No application shall be accepted by the City unless accompanied by the full annual license fee.

330.04 PERMIT FEE. The permit fee shall be \$2 per bingo occasion.

330.05 FIDELITY BOND. No bingo license shall be approved or permit issued until the bingo manager furnishes a fidelity bond in the sum of \$10,000 in favor of the organization. The bond shall be conditioned on the faithful performance by the manager of his or her duties. The bond shall not be cancelable except upon 30-days' written notice to the City. The Council may, by unanimous vote, agree to waive the fidelity bond requirement. If such waiver is granted, the license or permit must be endorsed to indicate such action.

330.06 REVOCATION. No permit holder shall have a vested right in any bingo permit and such permit may be suspended or revoked by the Council at any time upon a showing that (1) any

misrepresentation has been made in the application or any report required of the permit holder, or (2) the permit holder has violated or caused to be violated any provisions of this Section, the state bingo law, or federal law.

330.07 MISCELLANEOUS RESTRICTIONS.

Subd. 1 Liquor and Beer. No liquor or 3.2 beer shall be served, sold, or consumed in the room where the bingo game is conducted.

Subd. 2 Prizes. Award of prizes made in connection with the conduct of said game shall not require participation in a bingo game; and no single game prize or total prize shall be awarded in an amount to exceed \$50.

Subd. 3 Inducements. No free lunches, food, or other merchandise shall be offered nor given, nor shall other inducements for game participation be made by anyone, nor shall any permittee advertise a bingo game by means of newspaper, billboard, or handbill advertising.

SECTION 340 - PEDDLERS

340.01 DEFINITIONS AND INTERPRETATION. 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 vice-versa. The term “shall” means mandatory and the term “may” is permissive. The following terms shall have the definitions given to them:

Subd. 1 Peddler. The term “peddler” shall mean 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. 2 Person. The term “person” shall mean 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. 3 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 business days.

Subd. 4 Solicitor. The term "solicitor" shall mean 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, of 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. 5 Transient Merchant. The term "transient merchant" shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, 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 intend to remain in any location for more than ____ consecutive days.

340.02 EXCEPTIONS TO DEFINITIONS. For the purpose of the requirements of this section, the terms "peddler," "solicitor," 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 of 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 such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to 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 peddlers, solicitors, and transient merchants, as shall be anyone 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 provision or local ordinance.

340.03 LICENSING.

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

Subd. 2 City License Required. Except as otherwise provided for by this section, no person shall conduct business as either a peddler, solicitor 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 14 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 from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall included the following:

- (1) Applicant's full legal name.
- (2) All other names under which the applicant conducts business or to which applicant officially answers.
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like.)
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.

- (6) Full legal name of any and all business operation(s) owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
- (7) Full address of applicant's regular place of business (if any).
- (8) Any and all business related telephone number(s) of the applicant.
- (9) The type of business for which the applicant is applying for a license.
- (10) Whether the applicant is applying for an annual or daily license.
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days during which he or she will be conducting business in the City.
- (12) Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.

- (13) A statement as to whether or not the applicant has been convicted in within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or local ordinance, other than traffic offenses.

- (14) A list of the _____ most recent locations where the applicant has conducted business as a peddler or transient merchant.

- (15) Proof of any required county license.

- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

- (17) A general description of the items to be sold or services to be provided.

- (18) All additional information deemed necessary by the City Council.

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 an ordinance passed by Council.

Subd. 5 Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk shall forward the application to the council within two regular business days of receipt. An application shall be determined to be complete only if all required information is provided. The City Clerk, within two regular business days of receipt, shall determine if the application is complete. If the Clerk determines that the application is incomplete, the Clerk shall inform the applicant of the required necessary information which is missing. The Council shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving the application from the City Clerk, the Council shall vote whether or not to issue the license. If the Council approves the application, the Clerk shall be instructed to issue a license to the applicant. If the Council rejects the application, the applicant shall be notified in writing of the Council's decision, the reason for the denial, and of his or her right to appeal the denial by requesting, within 20 days of receiving the Council's notice of rejection, a public hearing to be heard by _____ within 20 days of the date of the request. The final decision of the council following the public hearing shall be appealable by petitioning the Minnesota Court of Apples for a Writ of Certiorari.

Subd. 6 Duration. An annual license granted under this section shall be valid for one calendar year from the date of issuance. All other licenses granted under this section shall be valid only during the time period indicated on the license.

340.04 LICENSE EXEMPTIONS. 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 licenses 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 an activity is for the purpose of exercising that person's State or Federal Constitutional rights (such as freedom of speech, press, religion, and the like) except that this exemption may be lost if that person's exercise of Constitutional rights 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 licensing provisions of this section.

340.05 INELIGIBILITY FOR LICENSE. The following shall be grounds for denying a license under this section:

- (A) The failure of the applicant to obtain and show proof of having obtained any required County license.
- (B) The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

- (C) The conviction of the applicant within the past five years from the date of the application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the licenses is being sought in an honest and legal manner or that will not adversely affect the health and welfare of the residents of the City. Such violation shall include but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened harm against another person.
- (D) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- (E) 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 ___ complaint(s) 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 12 months, or ____ such complaints filed against the applicant within the preceding five years.

340.06 SUSPENSION AND REVOCATION. Any license issued under this section may be suspended or revoked at the discretion 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 false statements made during the course of the licensed activity.
- (C) Conviction of any offense for which granting a license could have been denied under 340.05 of this section.
- (D) Violation of any provision of this section.

The suspension or revocation of any licenses 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 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. 1 Notice. Prior to revoking or suspending any license issued under this section, the City shall provide the license holder with 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 by mail to the permanent residential address listed on the license application , or if no residential address is listed, to the business address provided on the license application.

Subd. 2 Public Hearing. Upon receiving the notice provided in Subd. 1, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten 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 placed in the mail. If a public hearing is requested withing the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

Subd. 3 Emergency. If in the discretion of the City Council, imminent harm to the health or 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 public hearing as prescribed in Subd. 2.

Subd. 4 Appeals. Any person whose license is suspended or revoked under section 340.06 shall have the right to appeal that decision in court.

340.07 TRANSFERABILITY. No license issued under this section shall be transferred to any person other than the person to whom the license was issued.

340.08 REGISTRATION. All solicitors, and any person exempt from the licensing requirements of this section under 340.04, 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 City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferrable.

340.09 PROHIBITED ACTIVITIES. No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- (A) 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.
- (B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- (C) Conducting business in such a way as to create a threat to the health, safety and welfare of any individual or the general public.
- (D) Conducting business before 7:00 a.m., or after 9:00 p.m.

- (E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- (F) Making any false or misleading statements about the product or service being sold, including untrue statements of 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.
- (G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

340.10 EXCLUSION BY PLACARD. No peddler, solicitor, 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 peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least three and three-quarter inches long and three and three-quarter inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors, or Transient Merchants” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other 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.

340.11 VIOLATIONS AND PENALTIES. Any person who violates any provision of section 340 shall be guilty of a misdemeanor and upon conviction of any violation shall be subject to a fine not to exceed \$700 or a jail sentence not to exceed 90 days, or both, plus the cost of prosecution. Each day a violation exists shall constitute a separate violation for the purposes of this section.

SECTION 350 - DOG REGULATIONS

350.01 LICENSING. No person shall own, keep, or harbor a dog unless the dog is licensed as provided in this Section.

350.02 LICENSE APPLICATION. Written application shall be made at the office of the Clerk-Treasurer. The application shall state the name and address of the owner of the dog, the name, breed, age, sex, and color of the dog, and be accompanied by a certificate of vaccination from a qualified source certifying that the dog has been vaccinated against rabies, or has received a booster shot, within the 24-month period immediately preceding the application.

350.03 LICENSE FEE. The license fee shall be \$4 dollars for each spayed female and neutered dog, and \$10 for each unspayed or unneutered dog. The license fee shall be paid at the time of making the application. Proof of vaccination against rabies or of a booster shot, as required in

section 350.02, shall be presented to the Clerk-Treasurer before a license shall be issued. Proof of spaying or neutering shall be required in the form of a certificate from a licensed veterinarian stating the dog has been spayed or neutered.

350.04 TERM OF LICENSE. All dog licenses shall be issued for the life of the dog.

350.05 DOGS NOT REQUIRING LICENSING. No license shall be required of dogs less than six months of age.

350.06 TAG AND COLLAR. All dogs shall be harnessed or collared. The Clerk-Treasurer shall, upon issuance of a license, provide the applicant with a metallic tag. The tag shall be dated and numbered, and shall be securely fastened to the animal's collar or harness at all times.

350.07 RESTRAINT OF DOGS. No dog shall be permitted to be at large in the City. All dogs shall be under restraint at all times. A dog shall be considered under restraint if on a 12-foot or shorter leash and under the control of a competent person, or within a fenced yard or on a chain sufficient to keep the dog from reaching the property of another or any public area.

350.08 CONFINEMENT OF CERTAIN ANIMALS. The owner or harborer shall confine within a building or secure enclosure any fierce, dangerous, or vicious dog, and not permit the animal out of confinement unless and until it is securely muzzled and in the control of a competent person.

350.09 NUISANCES.

Subd. 1 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.

Subd. 2 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. 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 written complaints from citizens, or two 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.

It shall be unlawful for any owner of an animal of this class to permit or allow the animal to roam or engage in activities which otherwise constitute a nuisance.

350.10 IMPOUNDING ANIMALS. 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 regulation. The police or 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.

350.11 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 harborer of the impoundment, and of the conditions whereby the owner or harborer may regain custody of the animal. Verbal notice shall be immediately confirmed in writing by the police.

350.12 RECLAIMING IMPOUNDED ANIMAL. Any animal impounded may be reclaimed by the owner or harborer within five regular business days after receiving notice of the impoundment, upon payment to the Clerk-Treasurer of an impounding fee set by Council resolution, 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.

350.13 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.

350.14 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 regular business 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, 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.

350.15 RABIES SHOTS REQUIRED, PENALTIES FOR VIOLATION. 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 the time required under standard veterinary practices.

350.16 DOGS IN HEAT. Any female dog in heat shall be kept confined indoors or other confined area, 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.

350.17 BITING ANIMALS TO BE QUARANTINED. 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.

350.18 CERTAIN ANIMALS REGULATED.

- (A) It shall be unlawful to keep or harbor in the City any of the following animals, or animals of related species without first obtaining a written permit from the Council: horses, cows, sheep, goats, swine, chickens, animals of the genus reptilia or related species which are venomous or of the constrictor type, birds, or other animals the keeping in captivity of which is prohibited by law.
- (B) It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City. Any owner of a non-domestic animal at the time of adoption of this code shall have 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.
- (C) 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, non-domestic 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 rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

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

350.19 REVOCATION OF LICENSE OR PERMIT. The failure of any owner to comply with the requirements of this section shall constitute grounds for the immediate revocation of any license or permit issued under this section.

350.20 SHOD ANIMALS PROHIBITED ON CITY STREETS. It shall be unlawful for any person to permit or allow an animal with shod hoofs on any City street or sidewalk, except as a part of a parade authorized by the City, and on any authorized trail or access to an authorized trail.

350.21 VIOLATION A MISDEMEANOR. Violation of the provisions of Section 350 shall be a misdemeanor and punishable as provided in Section 120.04.

