

**CITY OF WILLERNIE**  
**WASHINGTON COUNTY, MINNESOTA**

Be it ordained by the City Council of the City of Willernie that the following sections be adopted as amendments/additions to the Code of Ordinances for the City of Willernie: Chapters 700, 800, and 900, as attached in full.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Barbara Parent, Mayor

Attested:

\_\_\_\_\_

Victoria Keating, City Clerk

## 701 LIQUOR REGULATIONS

**701.010** Adoption of State Law by Reference. The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

**701.020** City may be more restrictive than state law. The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

**701.030** Definitions. In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

**LIQUOR.** As used in this chapter, without modification by the words “intoxicating” or “3.2 percent malt,” includes both intoxicating liquor and 3.2 percent malt liquor.

**RESTAURANT.** An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a “restaurant” as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, Subd. 3(d), as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of “small establishment,” “medium establishment” or “large establishment.”

**701.040** Nudity on the premises of licensed establishments prohibited.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter.

This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of § 703.010(B).

Penalty, see § 703.010

**701.050**      **Consumption in public places.** No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.  
Penalty, see § 703.010.

**702**            **LICENSING**

**702.010**      **Number of licenses which may be issued.** State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

**702.020**     **Term and expiration of licenses.** Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

**702.030**     **Kinds of Liquor Licenses.** The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in this Code. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 701.55.

(A) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2 percent malt liquor off-sale license.

(C) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section **702.040** shall not exceed \$240 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating

liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in 701.030, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section **702.040** shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3(b), as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years; a political committee registered under state law; or a state university. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in 701.030; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.4011, Subd. 1, as it may be amended from time to time and to theaters that meet the criteria in M.S. § 340A.404 Subd. 1(b). The fee for an on-sale wine license established by the Council under the provisions of Section **702.040** shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section **702.040** shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.414, Subd. 6, as it may be

amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. § 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (N) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(N) Brewer off-sale malt liquor license, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (M) above and otherwise meets the criteria established as M.S. § 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.301, Subd. 7 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (M) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off- sales may not total more than 500 barrels.

Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer's license under Minn. Stat. § 340A.301, subd. 6(C), (I) or (j) and meeting the criteria established by Minn. Stat. § 340A.28 as may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with section 340A.285.

(O) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

(P) Brewer taproom license, may be issued to the holder of a brewer's license under M.S. § 340A.301 Subd. 6(c), (I) or (j) as it may amended from time to time. A brewer's taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. § 340A.301 Subd. 6(d) as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the City Clerk will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The City Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.

(Q) A cocktail room license may be issued to the holder of a state microdistillery license. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. § 340A.301 subd. 6 (a). No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the commissioner of public safety of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of public safety of a microdistillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

(R) A microdistiller off-sale license may be issued to the holder of a state microdistillery license. A microdistiller off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

(S) A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

**702.040**      **License Fees; Pro Rata.**

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. § 340A.408 if at the time of initial application or renewal they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

(4) Failure to abide by the provisions of this division may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to 702.170 of this chapter.

**702.050**      **Council discretion to grant or deny a license.** The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.



**702.060**      **Application for License.**

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the City. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

Penalty, see § 703.010.

**702.070**      **Description of Premises.** The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

**702.080**      **Applications for Renewal.** At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

**702.09**      **Transfer of License.** No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Penalty, see § 703.010.

**702.100**      **Investigation.**

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

**702.110**      **Hearing and Issuance.** The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

**702.120**      **Restrictions on Issuance.**

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold. Penalty, see § 703.010.

**702.130**

**Conditions on License.** The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an “on-sale” license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(F) Failure by an off-sale intoxicating liquor licensee who has received a fee reduction pursuant to 702.040 (F) of this chapter to abide with the provisions of § 702.040 (F).

Penalty, see § 703.010

**702.140 Hours and Days of Sale.**

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

Penalty, see § 703.010

**702.150 Minors on Premises.**

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

Penalty, see § 703.010

**702.160 Restrictions on Purchase and Consumption.** No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

Penalty, see § 703.010

**702.170 Suspension and Revocation.**

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of § 701.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 703.010 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

Penalty, see § 703.010

**703 PENALTY**

**703.010 Penalty.**

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

- (1) For the first violation within any three-year period, \$500.
- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term “violation” as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

**800 MISCELLANEOUS CRIMINAL CODE**

**801 GUNS, WEAPONS AND FIREARMS**

**802 MINORS**

**803 OPEN BOTTLES**

**804 DAMAGE TO PROPERTY, GRAFFITI**

## **801 GUNS, WEAPONS AND FIREARMS**

### **801.010 DEFINITIONS.**

A. Weapon means any gun, pistol, revolver, sling-shot, sand club, metal, knuckles, daggers, dirk, bowie knife, razor, air rifle, air gun, B-B gun, spring gun, bow and arrow, switch blade, firearm or any similar device for the propulsion of shot or other metal pellet by whatever means, and any other dangerous or deadly weapon or instrument. Person means any person, firm, partnership, or corporation.

B. A weapon is “concealed” within the meaning of this ordinance whenever the fact that a person is carrying a weapon is not readily ascertainable upon observing the person.

### **801.020 UNLAWFUL ACTS.** Except as otherwise provided herein, it shall be unlawful for any person:

- A. To have under his control for sale any weapon within the City of Willernie, except as provided in Section 801.050 of this Ordinance.
- B. To fire, discharge, release, throw, or in any other manner propel a weapon within the City of Willernie.
- C. To wear under ones clothes or conceal about one’s person any weapon, or to carry a loaded weapon in any bag, sack, box, knapsack, purse, or other such carrying device which hides the presence of the weapon.

### **801.030 SEIZURE, CONFISCATION, PENALTY.**

- A. If any law enforcement officer personally observes conduct in violation of 801.030, the weapon may be immediately seized and held in the custody of the City Law Enforcement Agency pending appropriate court action.
- B. If the court determines a violation of Section 801.030 has occurred, the weapon involved in such violation shall be forfeited to and confiscated by the City of Willernie.
- C. In addition to any confiscation and forfeiture under Section 801.040A, violation of this ordinance shall be a misdemeanor and result in a fine or imprisonment as authorized by the Code.

- 801.040**      **EXCEPTIONS.** The prohibitions of this ordinance shall not apply to:
- A.      **Police Officers.** Duly authorized law enforcement officers of the City when in the course and scope of their duties, nor to any officer of any court whose duty shall be to serve warrants or to make arrests, nor to persons who shall have obtained from the City Council or some other appropriate governmental agency, a license or permit to handle or have in his or her possession or control any weapon.
  - B.      **Encased Weapons.** Persons in possession of any weapon that is unloaded and properly encased and/or is being stored, transported, or displayed within a residence.
  - C.      **Sale Not in Regular Course of Business.** Persons in possession or control of any weapon for the purpose of the sale of the weapon as long as the sale is not in the regular course of said persons' business.
  - D.      **Licensed Person.** Persons licensed pursuant to Sections 801.060 to 801.140.
- 801.050**      **LICENSE REQUIRED.** No persons shall deal in or sell at retail or wholesale without a license, any gun, pistol, revolver, bow and arrow, or knife.
- 801.060**      **APPLICATION.** Application for such license shall be made in writing and filed with the Clerk and shall state the full name, age, and address of applicant, the location where the business is to be carried on, the owner of the premises, and such other information as the City Council.
- 801.070**      **FEE.** The fee for every such license shall be set by resolution of the City Council.
- 801.080**      **INSPECTION.** Applicant shall permit the officers of the City to inspect the place of business described in the application and refusal by an applicant to permit such inspection shall be grounds for the Council to refuse the license.
- 801.090**      **GRANTING OF LICENSE.** The Council may, after such investigation as it consider necessary, grant or deny the license applied for.



**801.100**      **TERM.** The license shall run for the period of one calendar year commencing January 1<sup>st</sup>. If application is made after January 1<sup>st</sup>, the license fee shall not be pro-rated and the license shall expire December 31<sup>st</sup> following.

**801.110**      **CONDITIONS OF LICENSE.** Every license shall be granted subject to the following conditions and all other provisions of this and any other Chapter of the City of Willernie Municipal Code or other ordinance or State Law.

A. No license shall be effective beyond the compact and contiguous space named in the license.

B. No weapon of any sort shall be sold or furnished to any person under Eighteen (18) years of age.

**801.120**      **REGULATIONS.** All persons licensed, and all persons required by this chapter to be licensed, shall comply with the following regulation:

A permanent written record of every sale of weapons must be kept. The name, age and address of the purchaser, the date of sale, a description and identification of the item, or items sold and the purchase price must be included in this record. City officers shall have the right to inspect this record.

**801.130**      **REVOCATION.** Violation of any provision of this chapter shall be grounds for revocation of such license.

## **802**      **MINORS**

**802.010**      It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor to permit such minor to carry or use within the City of Willernie any weapon as defined by the Code.

**802.020**      Any parent, guardian or other adult person having the care and custody of a minor who shall violate the provisions of 802.010 hereof, shall, be guilty of a misdemeanor.

## **803**      **OPEN BOTTLES**

**803.010**      **Definitions.**

A.      “Intoxicating liquor” shall mean any beverage having an alcoholic

content.

- B. “Public place” shall mean any land owned by any governmental unit or over which are governmental unit has an easement, including but not limited to streets, sidewalks and parks.
- C. “Open bottle” shall mean any container containing intoxicating liquor, except such original container which seal has never been opened. Any glass or other receptacle into which intoxicating liquor has been poured and is contained is an open bottle.

**803.020**      **Violation.**

- A. It shall be unlawful to be in possession of an open bottle of intoxicating liquor or a public place.
- B. It shall be unlawful to consume intoxicating liquor in any motorized vehicle or any passenger carrying appurtenance thereto, including but not limited to trailers or campers attached to pickup trucks or any other motorized vehicles except a motorized vehicle in which consumption of intoxicating liquor is allowed under state law while such vehicle is parked in a public place.

**803.030**      **Special Permit**

- A. The City Council of the City of Willernie may issue a special permit not to exceed ninety (90) days waiving any provisions of this ordinance when it deems such waivers to be consistent with public welfare and safety.
- B. Such permit must describe with specificity the conditions under which the permit is issued including:
  - 1. Public place which is covered by the permit.
  - 2. The person to whom the permit is issued.
  - 3. Any other conditions or restrictions that the City Council deems necessary to adequately provide for the public welfare and safety, including restrictions as to the type of intoxicating liquor which may be consumed and the hours in which such liquor may be served.

## 804 GRAFFITI AND DAMAGE TO PROPERTY

### 804.010 DAMAGE TO PROPERTY; GRAFFITI.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**GRAFFITI.** In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, *GRAFFITI* shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

**OWNER.** Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that *OWNER* shall not include the city.

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) *Penalty.*

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in this Code. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and

complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in § 130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) *Compliance by the city.*

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

**900**            **ANIMALS**

**901**            **DEFINITIONS**

**901.010**       **Definitions.** For the purpose of this Ordinance, the terms defined herein shall have the following meaning ascribed to them.

- A.     **Animal.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:
- (1) *Domestic Animals.* Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
  - (2) *Farm Animals.* Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch, or stable.
  - (3) *Non-domestic Animals.* 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:
    - (a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
    - (b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
    - (c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
    - (d) Any member or relative of the rodent family, and any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

- (e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators.
  - (f) 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.
- B. **At Large.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.
  - C. **Cat.** Both the male and female of the felidae species commonly accepted as domesticated household pets.
  - D. **Dog.** Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.
  - E. **Owner.** Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.
  - F. **Release Permit.** A permit issued by an Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the by Resolution of the City Council, as it may be amended from time to time

**901.020      Dogs and Cats.**

- A. **Running at large prohibited.** It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading “Dogs or Cats Prohibited.”
- B. **License required.**
  - 1. All dogs over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by

- the City Clerk upon payment of the license fee as established by Resolution of the City Council from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.
2. It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk the license fee of \$3.00, or as otherwise established by Resolution of the City Council.
  3. Upon payment of the license fee, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk. A charge shall be made for each duplicate tag in an amount of \$1.00 or as otherwise established by Resolution of the City Council. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.
  4. The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city. Service animals do not require a license.
- C. **Cats.** Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.
- D. **Vaccination.**
1. All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:
    - a. Rabies - with a live modified vaccine; and
    - b. Distemper.
  2. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk, an Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

Penalty, see § 903.010



**901.020      Non-Domestic Animals.** Except as provided in M.S. § 346.155, as it may be amended from time to time, 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.

Penalty, see § 903.010

**901.030      Farm Animals.** Farm animals shall only be kept on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

**901.040      Impounding.**

- A. **Running at large.** Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.
  
- B. **Biting Animals.** Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be impounded for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

C. **Reclaiming.** For the purposes of this section regular business day means a day during which the establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined in this Code in which case it shall be kept for seven regular business days or the times specified, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

1. Payment of the release fee and receipt of a release permit as established by Resolution of the City Council from time to time.
2. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and
3. If a dog is unlicensed, payment of a regular license and valid certificate of vaccination for rabies and distemper shots is required.

D. **Unclaimed animals.** At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may dispose of the unclaimed animal in a manner permitted by law. Any money collected under this section shall be payable to the City Clerk.

Penalty, see § 903.010

**901.50 Kennels.**

- A. Every person, group of persons or corporation engaged in the commercial business of buying, selling and/or boarding and who owns, harbors or keeps four or more dogs or cats in a kennel shall pay a kennel license fee as established from time-to time by resolution of the City Council provided, however, that any persons operating such kennel must license individual dogs or cats owned by them as provided in this Ordinance. The license holder must comply with all City Zoning Ordinances and Minnesota Statutes.

Penalty, see § 903.010

**901.060 Barking, Crying, Whining Dogs.**

- A. **Habitual barking.** It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated

intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

- B. Damage to property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the animal's owner has knowledge of the damage.
- C. Cleaning up litter. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others, or on public property.
- D. Warrant required. The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal.

**901.070 Seizure of Animals.** Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

- A. There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;
- B. The officer reasonably believes that the animal meets either the barking dog criteria set out in this Code or the criteria for cruelty set out in this Code; or the criteria for an at large animal set out in this Code.
- C. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
- D. The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignore;
- E. The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction. If the officer has the permission of the owner, a property manager, landlord, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and
- F. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

**901.080 Dangerous and Potentially Dangerous Dogs.** *Adoption by reference.* Except as otherwise provided, the regulatory and procedural provisions of M.S. §§ 347.50 to 347.565 (commonly referred to as the "Dangerous Dog Regulations"), are adopted by reference.

**901.090 Basic Care**

- A. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their

pet in a humane manner will be subject to the penalties provided in this section.

B. Dogs and cats. Dogs and cats must be provided the following basic care:

1. *Food.* Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight.
2. *Water.* Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.
3. *Transportation and shipment.* When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals.
4. *Shelter size.* A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.
5. *Exercise.* All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.
6. *Group housing and breeding.* Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.
7. *Temperature.* Confinement areas must be maintained at a temperature suitable for the animal involved.
8. *Ventilation.* An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.
9. *Lighting.* An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.
10. *Confinement and exercise area surfaces.* Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be

constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

11. *Drainage.* Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.
  12. *Sanitation.* Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.
- C. *Birds, rodent other animals.* Basic care provided to pet and companion animal birds, rodents and other shall be consistent with M.S. § 346.40, § 346.41 and § 346.42, as those statutes may be amended from time to time.
- D. *Dogs and cats in motor vehicles.*
1. *Unattended dogs or cats.* A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety.
  2. *Removal of dogs or cats.* A peace officer, as defined in M.S. § 626.84, as it may be amended from time to time, a humane agent, a dog warden, or a volunteer or professional member of a fire or rescue department of the city may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of (D)(1). A person removing a dog or a cat under this division shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.
- E. *Dog houses.* A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.
1. *Building specifications.* The shelter shall include a moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

2. *Shade*. Shade from the direct rays of the sun, during the months of May to October shall be provided.
3. *Farm dogs*. In lieu of the requirements of (E)(1) and (E)(2), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

## **902 MISCELLANEOUS**

### **902.010 Breeding Moratorium.**

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

### **902.020 Enforcing Officer.**

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

### **902.030 Pound.**

The Council may designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

### **902.040 Fighting Animals.**

- A. The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted herein by reference.
- B. No person shall:
  - a. Promote, engage in, or be employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in M.S. § 346.36, Subd. 6, as it may be amended from time to time, against another of the same or a different kind;
  - b. Receive money for the admission of a person to a place used, or about to be used, for that activity;
  - c. Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or
  - d. Use, train, or possess a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.
  - e. Purchase a ticket of admission or otherwise gain admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal against another of the same or a different kind.

### **902.050 Feeding Stray Cats and Dogs.**

#### *A. Definitions.*

- a. ***Feed*** or ***Feeding*** means the placing of dog or cat food, or similar food products or consumable materials attractive to dogs and cats, which may result in dogs and cats congregating thereon on a regular basis, placed on the ground, in an obviously

intended feeder, or in a feeder at a height accessible to cats and dogs.

- b. **Stray** means an unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.
- B. *Policy and purpose.* High populations of stray dogs and cats pose a hazard to human health and safety, as such animals provide a fruitful breeding ground for infectious disease, including but not limited to rabies and distemper, and may otherwise bite or attack humans and domestic animals. In addition, food provided for stray animals is often attractive to wild animals such as raccoons and rodents and may create nuisance conditions such as a rat harborage or other wild animal infestation.
  - C. No person shall feed or allow the feeding of any stray cat or dog within the city.
  - D. *Exceptions.* Veterinarians and persons who, acting within the scope of their employment with any governmental entity non-profit, or humane society has custody of or manages stray dogs and cats are not subject to the prohibitions of this section.

**903.010 Penalty.**

- A. *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.
- B. *Misdemeanor.* Any person, firm, or corporation who violates any provision of this Section for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.
- C. *Petty Misdemeanor.* Any person, firm or corporation who violates any provision of this Section, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.
- D. Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.