CHAPTER 1

CODE INTRODUCTION

Section 100 - General Provisions

100.01. Adoption of Code. The ordinances of the City of Blue Earth hereby are revised and codified. Such codification is hereby adopted as the “1998 City Code of Blue Earth”. References to the City Code of Blue Earth shall include all additions and amendments to it.

100.02. Code Citation. This codification of the ordinances of the City of Blue Earth shall henceforth be known as the 1998 City Code of Blue Earth and cited in the 1998 City Code of Blue Earth as “this code” or “the code”. References to the Code hereby replaced shall be cited as the 1978 City Code of Blue Earth.

100.03. Numbering. Each Subsection number of this Code consists of two component parts separated by a decimal. The numbers before the decimal refer to the Chapter and Section of the Code in which the Subsection is located. The number the furthest to the left of the decimal designates the Chapter number. The two numbers just to the right of the decimal designate the Section number. If the Section has Subsections, the numbers after the decimal designate the Subsection number. Subdivisions and subparts to any Subsection are indicated by consecutive numbers and uppercase letters respectively. Other methods of numbering may also be occasionally used in any provision of this Code.

100.04. Title Headings; Cross References. Chapter, Section, Subsection, subdivision, and other titles shall not be considered part of the subject matter of this Code but are intended for convenience only and not necessarily as comprehensive titles.

100.05. Existing Rights and Liberties. The repeal of prior ordinances and the adoption of this Code are not to be construed to affect in any manner rights and liberties existing at the time of repeal and the enactment of this Code. Insofar as provisions in this Code are substantially the same as pre-existing ordinances, they shall be considered as continuations and not as new enactments. Any act done, offense committed, right accruing or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this Code is not affected by the enactment of the Code.

100.06. Additions and Amendments. New ordinances proposing amendments or additions to the Code shall be assigned appropriate code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code shall be deemed to include such amendments and additions. When an ordinance is integrated into the Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions or terms identical to those contained in this Code, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the Code, the Clerk-Administrator in cooperation with the City Attorney may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, subsections, and chapters; substitute figures for written words and vice versa; substitute
dates for the words “the effective date of this ordinance”; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted. In the case of the repeal of a chapter, section, subsection, subdivision, or any part thereof, by subsequent ordinances, the repealed portion may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

100.07. Separability. Every Chapter, Section, Subsection, subdivision, subpart, paragraph or provision of the City Code shall be, and is hereby declared, severable from every other such Chapter, Section, Subsection, subdivision, subpart, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other Chapter, Section, Subsection, subdivision, subpart, paragraph or provision.

100.08. Payment Into City Treasury of Fines and Penalties. All fines, forfeitures, and penalties recovered for the violation of any ordinance, charter, rule or regulation to which the City is entitled to by law shall be paid into the City Treasury by the Court or officer receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided for by law.

100.09. Copies. Copies of this Code shall be kept in the office of the Clerk-Administrator for public inspection and sale for a reasonable charge. A copy of this Code and any amendment to it shall be filed with the County Law Library or its depository in accordance with Minnesota law.
Section 110 - Definitions and Rules of Construction

110.01. Intent of Language. Unless the language or context clearly indicates that a different meaning is intended, the terms words and phrases listed under Section 110.02, for the purpose of every Chapter, Section, Subsection, subdivision, paragraph and provision in this City Code, shall have the meanings given under Section 110.02.

110.02. Definitions.

Subd. 1. City. The term “City” means the City of Blue Earth, Minnesota, acting by or through its duly authorized representative.

Subd. 2. Council and City Council. The terms “Council” and “City Council” mean the City Council of the City of Blue Earth, Minnesota.

Subd. 3. Clerk-Administrator. The term “Clerk-Administrator” means the person duly appointed by the Council to perform the duties of the City Clerk and City Administrator. References to the “Clerk” or “Administrator” shall mean the “Clerk-Administrator”.

Subd. 4. Person. The term “person” includes all firms, partnerships, associations, corporations and natural persons.

Subd. 5. Written and In-Writing. The terms “written” and “in writing” mean any mode of representing words and letters in the English language.

Subd. 6. Street. The term “street” means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, public alleys, and other public property between lateral property lines in which a roadway lies.

Subd. 7. Intersection. The term “intersection” means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

Subd. 8. Roadway. The term “roadway” means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term “roadway” as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Subd. 9. Police Officer and Peace Officer. The terms “police officer” and “peace officer” mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.

Subd. 10. Conviction. The term “conviction” means either of the following accepted and recorded by the court:
   A. A plea of guilty; or
   B. A verdict of guilty by a jury or a finding of guilty by the Court.

Subd. 11. Crime. The term “crime” means conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.

Subd. 12. Ordinance. The term “ordinance” means an ordinance duly adopted by the City Council of Blue Earth, Minnesota.

Subd. 13. Ex-Officio Member. The term “ex officio member” means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right
and obligation (within his or her discretion) to speak to any question coming before the Board, Commission, or other deliberative body of which he or she is such member.

**Subd. 14. Premises.** The term “premises” means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

**110.03. Rules of Construction.** The following are rules of construction for the interpretation of this Code.

- **Subd. 1. May.** The term “may” is permissive.
- **Subd. 2. Shall.** The term “shall” is mandatory.
- **Subd. 3. Violate.** The term “violate” includes failure to comply with.

**110.04. Interpretations.** The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645, are adopted by reference and made part of this Code. As adopted, references in that chapter to laws or statutes mean parts of this Code and references to the legislature mean the City Council. Any meaning adopted in Minnesota Statutes, Chapter 645, contrary to a meaning specifically given within this Code will be subordinate to the specific meaning.

**110.05. Delegation of Authority.** Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
120.01. **Petty Misdemeanor.** Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than $200.00.

120.02. **Misdemeanor.** Unless another penalty is expressly provided in this Code, any person violating any provision, rule, or regulation adopted in pursuance thereof, or any other provision of any code adopted in this Code by reference, including any provision declaring an act or omission to be a violation, shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not more than $700.00 or imprisonment in a city or county jail for a period of 90 days, or both.

120.03. **Penalties For Each Offense.** When a penalty or forfeiture is provided for the violation of a Chapter, Section, Subsection, subdivision, paragraph or provision or this City Code, such penalty or forfeiture shall be construed to be for each such violation.

120.04. **Court Costs and Prosecution Expenses.** To the extent permitted by State law, the Rules of Criminal Procedure, and the Rules of Court, the City shall be authorized to collect from anyone violating any provision of this Code the costs of prosecution and any other applicable Court costs.

120.05. **City Personnel Liability.** The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

120.06. **Liability for Acts of Another.** A person shall be liable for a violation of the Code committed by another if he or she intentionally hires, counsels, conspires with or otherwise procures another to commit the act.
130.01. **Purpose.** Administrative offense procedures established pursuant to this chapter are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance with the law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty which may be imposed, the city will seek to collect costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

130.02. **Administrative Offense Defined.** An administrative offense is a violation of a provision of this code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 130.08.

130.03. **Notice.** Any officer of the Blue Earth Police Department, or any other person employed by the city, authorized by the City Council, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. The notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice and the amount of the scheduled penalty.

130.04. **Payment.** Once the notice is given, the alleged violator may, within seven days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation or notify the city in writing that they contest the violation. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

130.05. **Contested Case.** Any person contesting an administrative offense pursuant to this Section may, within 14 days of the time of issuance of an administrative penalty notice request an appeal before the administrative penalty review board. The review board shall have the authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the review board, the violator shall pay the penalty imposed within 7 days. The administrative penalty review board shall be a 2 member panel as appointed by the Mayor. Any administrative review resulting in a tie by the board shall be governed by a tie breaking vote by the Mayor.

130.06. **Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty and does not notify the city that they are contesting the violation, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes and, if applicable, the fine may be levied as an assessment against the property owner. If the penalty is paid or if an individual is found to not have committed the administrative offense by the courts, no such charge may be brought by the city for the same violation.
130.07. **Disposition of Penalties.** All penalties collected pursuant to this chapter shall be paid to the City’s Finance Director and may be deposited in the city’s general fund.

130.08. **Offenses and Penalties.** Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Clerk.

130.09. **Subsequent Offenses.** In the event a party is charged with a subsequent administrative offense within a 24-month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be subject to an increased penalty as provided for in this section. First offenses shall have a penalty as specified by resolution periodically determined by the City Counsel. Second offenses within 24 months of the first violation shall have a penalty subject to a 25% increase over the penalty as set by resolution. Third offenses shall have a penalty subject to a 50% increase. Any additional violation in a 24 month period shall be subject to the same penalty as a third violation.
CHAPTER 2

OPERATIONS AND ADMINISTRATION

Section 200 - Meetings

200.01. Public Meetings. All Council meetings, including special, emergency, adjourned meetings and meetings of Council Committees, shall be conducted in accordance with Minnesota Law. Notice of such meetings shall also be in accordance with Minnesota Law.

200.02. City Council Meetings.

Subd. 1. Organizational Meeting. The first meeting of the Council after the regular municipal election shall be held on the evening of the first regularly scheduled Council meeting in January at 5:00 P.M. in the Council Chambers.

Subd. 2. Regular Meetings. All regular meetings of the Council, other than the organizational meeting, shall be held in the Council Chambers on two days per month at a time adopted by Resolution of the Council. All regular meetings shall be held in the City Hall unless the Council decides otherwise at a prior meeting, or meeting in the City Hall is impossible.

Subd. 3. Special Meetings. A special meeting may be called by the Mayor or any three (3) Councilmembers pursuant to Section 3.02 of the Charter. Written notice of one day shall be personally delivered to each Councilmember or left at his or her personal place of abode or business prior to a special meeting. The notice shall contain a statement of the business for which the meeting was called. No other business shall be transacted at a special meeting.

Subd. 4. Emergency Meetings. When circumstances arise that, in the judgment of the City Council, require immediate Council consideration, the City Council may convene an emergency meeting.

Subd. 5. Adjournment. Any meeting of the City Council may be adjourned when less than a quorum of the Councilmembers are present pursuant to section 3.01 of the Charter. All business transacted at such later adjourned meeting shall have the same validity as if done at a regular meeting.

200.03. Council Meeting Procedure.

Subd. 1. Organizational Meeting. At the organizational meeting the Council shall be organized and newly elected or re-elected officers shall take and subscribe the oath of office in the form stated in the Charter. At such meeting the Council shall also determine the category or categories of claims to be allowed on the basis of checks or order checks bearing the declaration required by Statute.

Subd. 2. Regular Meetings. The Clerk-Administrator shall prepare the following items: (1) an agenda for the forthcoming meeting; (2) a report from the Clerk-Administrator on administrative activities of the preceding month; (3) a compiled list of all claimants (including those to be paid on the basis of the check or order-check declaration) who have filed verified accounts claiming payment for goods or services rendered the City during the preceding month, such list to be called the “Claim
Report” and bearing headings “claimant”, “purpose”, and “amount”; and, (4) a copy of all minutes to be considered. The Clerk-Administrator shall forthwith cause to be delivered to the Mayor, each member of the Council, and the City Attorney copies of all said documents.

Subd. 3. Special and Emergency Meetings. Special and Emergency meetings shall be conducted according to the order of business disclosed in the notice of the meetings. No other business shall be transacted at such meetings except such as is designated in such notice.

200.04. Order of Business at Meetings. The order of business at regular meetings shall be as follows:

1. Call to Order.
2. Roll Call.
3. Determination of a Quorum.
4. Pledge of Allegiance.
5. Meeting Opened to the Public. The presiding officer shall limit the time allowed. Persons speaking shall give their name, address, and state their business.
6. Approval of Minutes. (Actual reading may be waived if each member of the Council was furnished with a copy thereof as herein before set forth.)
7. Licenses and Permits.
8. Correspondence.
10. Public Comments. (Meeting opened in the order stated in the agenda to persons requesting to appear before the Council. The presiding officer may advise any person appearing as to the amount of time allowed prior to his speaking, or later limit such time. Persons speaking shall give their name, address, and state their business.)
11. Reports of Staff Members.
12. Reports from Boards and Commissions.
15. Old Business.
17. Transfer of Funds and Other Budgetary Matters.
18. Payment of Claims and Approval for Payment of Claims and Appropriations.
20. Adjournment.

Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except: (1) with the unanimous consent of the members of the Council; (2) scheduled public hearings or bid lettings at the time stated in the notice; or (3) new business or amendments that were not presented at the last council meeting or previous work session, unless by unanimous consent of the members of the Council. All claims for payment and requests to appear before the Council must be made and filed with the Clerk-Administrator at or before 12:00 o’clock noon on the Friday preceding the regular Council meeting at which the appearance is to be made or the claim to be considered.

200.05. Procedural Rules.
**Subd. 1. Quorum.** No meeting of the Council or any Council Committee shall be convened unless at least a quorum of the Council or the Committee is present. A group less than a quorum may adjourn a meeting. A quorum shall be a majority of all the Councilmembers elected for Council meetings. A quorum shall be a simple majority of the Councilmembers appointed to a committee for committee meetings.

**Subd. 2. Procedure.** The presiding officer shall preserve order, enforce the rules or procedure herein prescribed, and determine without debate, subject to final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by the Charter, by statute, or by these rules, the proceedings at any meeting shall be conducted in accordance with Roberts Rules of Order, Revised.

**Subd. 3. Appeal of Ruling Procedure.** Any member may appeal to the Council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Councilmember shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present and voting.

**Subd. 4. Suspension or Amendment of the Rules.** These rules may be suspended only by a two-thirds vote of the members present and voting.

**Subd. 5. Minutes.** The minutes of each Council meeting shall be kept by the Clerk-Administrator, or in the Clerk-Administrator’s absence, by the Deputy Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk-Administrator and can be accurately identified from the description given in the minutes. Approval of the minutes shall be considered by the Council at the next regular Council meeting. Additions and corrections may be made at that time by a vote of the Council.

**Subd. 6. Voting.** The votes of the Councilmembers at any meeting shall be taken in a manner which complies with section 3.06 of the Charter. All ordinances shall be enacted by roll call vote and any member of the Council may ask for a roll call on any resolution or motion. Any ordinance may be enacted by majority vote except as otherwise provided for in the Charter.

**200.06. Council to Set City Personnel Rules and Regulations.** The Council may establish personnel rules setting forth the rights, duties and responsibilities of City employees. Such rules may from time to time be amended.
Section 210 - The Mayor and Councilmembers

210.01. The Mayor. The Mayor of the City of Blue Earth shall be the presiding officer at all City Council meetings and shall choose a Vice Mayor from the members of the Council to serve as the Mayor in his or her disability or absence from the City. The Mayor shall also have a vote as member of the City Council.

210.02. The Councilmembers. There shall be a City Council of seven (7) members consisting of the Mayor and six (6) Councilmembers, two (2) from each of the three (3) wards in the City of Blue Earth pursuant to section 2.02 of the Charter. Each Councilmember will be entitled to one (1) vote at Council meetings.

210.03. Compensation of Elected City Officials.

Subd. 1. Mayor’s Compensation. The Mayor’s compensation rate is $4,800.00 per year in 2015, 2016 and thereafter.

Subd. 2. Council Compensation. Councilmembers’ compensation rate is $3,000.00 per year in 2015, 2016 and thereafter.

Subd. 3. Compensation Based on Attendance. A Councilmember's compensation shall be reduced by forty-eight dollars ($48) per meeting for any unexcused absences from a regular council meeting. An unexcused absence is when a Councilmember does not notify City Hall in advance of the regular council meeting that they are unable to attend or will be late for a meeting. A Councilmember is allowed four (4) excused absences per year. Any absences from a regular council meeting in excess of four excused absences are unexcused.

Subd. 4. Expense and Mileage Reimbursement. The Mayor and Councilmembers shall be reimbursed for mileage and other out-of-pocket expenses for City business subject to approval by the City Council.

Subd. 5. Payment Schedule. The Mayor and Councilmembers shall be paid one-twelfth (1/12) of their compensation rate once each month for the previous month's service.

Subd. 5. Minnesota Workers’ Compensation Act. The Officers of the City of Blue Earth elected or appointed for a regular term of office shall not be included in the coverage of the Minnesota Workers’ Compensation Act pursuant to Minnesota Statutes §176.011, Subd. 9, Clause 6.

210.04. Terms of Office. The Mayor of the City of Blue Earth shall hold office for a term of four (4) years and until his or her successor qualifies for office. Each Councilmember of the City of Blue Earth shall serve for a term of four (4) years and until his or her successor qualifies for office.

210.05. Elections. Elections shall be held on the first Tuesday following the first Monday of November in each even-numbered year beginning in November of 1998. The Mayor and three (3) Councilmembers, one (1) from each ward, shall be elected at each election.

210.06. Polling Location. The City of Blue Earth shall have one combined polling location for wards 1, 2, and 3. The polling place shall be at the Hamilton Hall, located at the intersection of Seventh Street and Moore Street in the City of Blue Earth.
210.07. Facsimile Signatures. The Mayor and Clerk-Administrator are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of their signatures, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were their manually written signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

210.08. Interim Emergency Succession.

   **Subd. 1. Purpose.** Due to the existing possibility of a nuclear attack, an act of war or a natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to insure the continuity of duly elected and lawful leadership of the City, for the continuity of the government and the emergency interim succession of key governmental officials by providing a method for temporary emergency appointments to their offices.

   **Subd. 2. Succession to Local Offices.** In the event of an act of war, a nuclear attack upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, Council and Clerk-Administrator shall be forthwith notified by any one of said persons and by any means available to gather at the City Hall. In the event that safety or convenience dictate, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

   A. By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.

   B. They shall review and record the specific facts relating to the act of war, nuclear attack or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.

   C. They may, based on such facts, declare a state of emergency.

   D. By majority vote of those persons present, regardless of number, they shall fill all positions on the Council, (including the office of Mayor) of those persons upon whom notice could not be served or who are unable to be present.

   **Subd. 3. Duties and Term of Successor.** An emergency interim successor shall exercise that office until the duly elected or appointed officer resumes the office or the successor is designated as required by law.

210.09. Disbursement of Funds and Allowance of Accounts. All disbursements shall be made by order signed by the Mayor and Clerk-Administrator which shall specify the purpose for which the disbursement is made and indicate that it is to be paid out of the proper fund. No disbursement of City funds, including funds of any municipal liquor dispensary operated by the city, shall be made except when issued for the payment of judgments, salaries and wages previously fixed by the Council or by statute, principal and interest on obligations, rent and other fixed charges, the exact amount of which has been previously determined by contract authorized by the Council, and except as otherwise provided for by, statute without first being duly audited and allowed by the Council.
Section 220 - Clerk-Administrator

220.01. Position Created. There is hereby created the position of Clerk-Administrator as authorized by law and Charter.

220.02. Chief Administrative Officer. The Clerk-Administrator shall be the chief administrative officer of the City and pursuant to this position shall perform the duties set forth in this Section and all others as may be assigned to him or her by the Council which are not inconsistent with Minnesota Statutes. The Clerk-Administrator shall also perform all the statutory duties of the City Clerk. When referred to in this Section, the Council shall consist of the Mayor and six (6) Councilmembers as defined by Charter.

220.03. Appointment and Removal. The Clerk-Administrator shall be appointed by the Mayor and confirmed by the Council and shall serve at the pleasure of the Council, except that if requested, the Council shall grant the Clerk-Administrator a public hearing within thirty (30) days following notice of his or her removal. The Council shall also provide written notice of any charges alleged as reasons for termination to the Clerk-Administrator at least ten (10) days prior to the requested public hearing. During the interim, the Council may suspend the Clerk-Administrator from duty but shall continue his or her salary.

220.04. Selection. The Clerk-Administrator shall be selected solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in, or his or her knowledge of accepted practices in respect to the duties of his or her office as described hereinafter.

220.05. Responsibilities. The Clerk-Administrator shall be responsible to the Council for the proper administration of those affairs of the City, assigned to his or her office, and to that end shall have the power and shall be required to:

Subd. 1. Supervision of City Departments and Offices. The Clerk-Administrator shall supervise the administration of all departments and offices of the City. Such supervision shall include the making of ministerial decisions affecting such departments and offices and recommending procedures to the Council for adoption. The Clerk-Administrator shall appoint and remove, upon the basis of merit and fitness, all employees except department heads, City Attorney, and City Engineer. Appointment or dismissal of department heads shall be subject to ratification by a majority vote of the Council. The City Attorney shall be consulted with and the Council notified prior to a dismissal. The Clerk-Administrator will not appoint any individual who is a parent, spouse, child, or sibling of any City official or employee without the approval of the Council.

Subd. 2. Develop Administrative Rules. Develop and issue all administrative rules, regulations and procedures necessary to insure the proper functioning of all departments and offices within his or her jurisdiction. Such rules, regulations and procedures shall be consistent with Minnesota Statutes, the City Code and Council policies. Said rules, regulations and procedures shall be effective upon issuance and shall continue to be in effect until rescinded by the Clerk-Administrator or the express action of the Council.
**Subd. 3. Coordinate Activities of City.** Coordinate the activities of and serve as an advisor to all elected and appointed officials of the City, including, but not limited to, the Library Board, Planning Commission, Housing and Redevelopment Authority, Fire and Police Departments.

**Subd. 4. Prepare Budget.** Prepare the budget annually and submit it to the Council together with a message describing the important features of the budget and keep the Council advised of the financial condition and future needs of the City, and make recommendations as he or she may deem desirable. He or she shall supervise the purchase of all materials and equipment for which funds are provided in the budget and as directed by the Council.

**Subd. 5. Attend City Meetings.** Attend all meetings of the Council and other official bodies as directed and to take part in the discussion of all matters coming before the Council. The Clerk-Administrator shall also represent the City at all official or semi-official functions as may be directed by the Council.

**Subd. 6. Enforce City Laws.** In cooperation with the Mayor and the Council, shall see that all laws and ordinances are duly enforced, and investigate all complaints in relation to matters concerning the administration of departments and offices within his or her jurisdiction and whenever necessary shall make recommendations to the Council for improvement of services.

**Subd. 7. Purchase City Materials.** Purchase or supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget necessary for operation or maintenance of City services for amounts up to $10,000.00, receive estimates or sealed bids for purchases or contracts in excess of and including $10,000.00 and present them to the Council for official action, and advise the Council on the advantages or disadvantages of contract and bid proposals. The Clerk-Administrator may issue such rules governing purchasing procedures within the administrative organization as the Council shall approve.

**Subd. 8. Other.** Perform such other duties as may be required by the Council and consistent with Minnesota Statutes and the City Code.

**220.06. Bond.** The Clerk-Administrator shall furnish a surety bond to be approved by the Council, said bond to be conditioned upon faithful performance of his or her duties. The premium of the bond shall be paid by the City.
Section 230 - Public Hearings and Appeals

230.01. Public Hearings. Unless otherwise provided for in this Code, by Charter, or by law, every public hearing by Charter, this Code, state statute, ordinance, or resolution to be held on any legislative or administrative matter, shall be conducted in accordance with this Section.

230.02. Right to an Administrative Appeal. If any person shall be aggrieved by any administrative decision of the Clerk-Administrator or any other City official, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefor upon the Mayor and Clerk-Administrator at least five (5) days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence he or she deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on his or her own motion or the motion of the appellant, the Clerk-Administrator, or a member of the Council, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.

230.03. Rule of Procedure for Hearings and Appeals. The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

Subd. 1. Notice. The Council shall, unless otherwise provided by law, give at least twenty (20) days written notice to each appellant and respondent, with a brief statement as to the general nature of the decision appealed from, in all cases of appeal. As to other hearings, such notice as required by law shall be given.

Subd. 2. Presiding Officer. The Mayor shall be the presiding officer at all hearings, including appeals, provided that he or she may, in his or her discretion, designate another Council member to preside.

Subd. 3. Order of Presentation. The evidence and witnesses for the proponent or appellant shall be presented first, and for contestant or respondent shall be presented thereafter.

Subd. 4. Witnesses and Evidence. All witnesses shall be heard and evidence presented on both sides of any matter heard before the Council. Upon written demand served upon the Clerk-Administrator at least five (5) days prior to the date for hearing, either side may demand that all witnesses be sworn. In the event of such demand, the oath shall be administered by a person authorized by State law to administer oaths, who shall be present at the instance and request of the Council.

Subd. 5. Closing Statements or Final Argument. The contestant or respondent shall make the first closing statement or final argument, and the proponent or appellant shall follow. Responses may be heard if the presiding officer, in his or her discretion, elects to hear them.

Subd. 6. Record and Findings. In all cases deemed necessary or desirable, findings of fact and a decision shall be made in writing and a copy thereof served upon both parties.
230.04. Applications and Other Filings. Unless otherwise specifically provided by the City Code, all applications and filing of other documents shall be at the administrative offices of the City.
Section 240 - City Departments

240.01. Departments Generally.

Subd. 1. Control. All Departments of the City are under the overall control of the Clerk-Administrator. Heads of all Departments are responsible to the Clerk-Administrator and subject to his or her supervision and direction, except as otherwise provided herein.

Subd. 2. Appointment. All department heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term and subject to any applicable Civil Service Regulations in effect in the City.

Subd. 3. Compensation. All wage and salary scales shall be fixed and determined by the Council.

Subd. 4. Table of Organization and Lines of Responsibility. The Council may by resolution adopt, amend, and from time to time revise, a Table of Organization and define lines of responsibility and authority for the efficient governmental organization of the City.

Subd. 5. Budgetary Information. The heads of all departments shall, by a deadline set by the Clerk-Administrator, file with the Clerk-Administrator the projected financial needs of his or her department for the ensuing year. Such projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the Clerk-Administrator.

240.02. Police Department.

Subd. 1. Duties of Police. The Chief of Police and all members of the Police Department, in addition to powers granted by the Charter, shall have the powers and authority of police or peace officers generally, and shall perform such duties as are required of them by the City Council or by law.

Subd. 2. Chief of Police. The Chief of Police shall have general superintendence of the Police Department and custody of all property used and maintained for the purposes of said department. It is the duty of the Chief of Police, on or before the tenth day in each month, to file with the Clerk-Administrator a report as to all arrests made by, and other activities of his or her department during the previous month.

240.03. Fire Department.

Subd. 1. Establishment and Composition. A Fire Department is hereby established. The size and composition shall be established by resolution of the Council, which may be changed from time to time by a subsequent resolution. The Council shall also establish, and from time to time revise and amend, written rules and regulations of the Department including, but not limited to, its internal structural organization and compensation, a copy of which shall be distributed to each of its members whenever established, revised or amended.

Subd. 2. Fire Chief. The Chief of the Fire Department shall have general supervision of the Fire Department and the custody of all property used and maintained for the purposes of said department. He or she shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire
Department and to prevention and extinguishment of fires are duly observed. He or she shall supervise the preservation of all property endangered by fire and shall control and direct all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all powers, perform all the duties and be subject to all the responsibilities of the Chief. It is the duty of the Chief of the Fire Department, on or before the tenth day in each month, to file with the Clerk-Administrator a report as to all fires occurring during the previous month stating the probable cause thereof and estimated damages; such reports shall also state the other activities of the Department. The Chief of the Fire Department shall also make and file such other reports as may be requested by the Council.

240.04. Legal Department. A Legal Department is hereby established. The Council shall appoint a City Attorney, who shall be head of the Legal Department, together with such assistants as may be necessary who shall serve at the pleasure of the Council. The City Attorney shall perform such duties as are required of him or her by law or referred to him or her by the Council. It shall be the official duty of the City Attorney to act as “Revisor of Ordinances”.

240.05. Engineering Department. An Engineering Department is hereby established. The activities of this department shall be under the general supervision of the Consulting Engineer of the City on such basis as the Council may, from time to time, determine.

240.06. Public Works Department. A Public Works Department is hereby established. A member of the Public Works Department shall be its supervisor. All street maintenance and repair, making of sewage system connections, waste water treatment facilities, lift station maintenance and operation, and the maintenance of all city park facilities, municipal grounds and municipal buildings shall be under this department.

240.07. Building Department. A Building Department is hereby established. The Department shall be charged with the administration and enforcement of the Minnesota State Building Code, as adopted in Chapter 9 of this Code. The Department shall be under the general supervision and direction of a Building Inspector, to be appointed by the City Council.

240.08. Additional Departments. The Council may by resolution establish such additional Departments as it deems necessary or desirable. Any resolution establishing such additional Departments shall set forth the purpose for which it is established, lines of authority, and such other matters, including financing, as the Council may deem appropriate.
Section 250 - City Boards and Commissions

250.01. Boards and Commissions Generally. All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, and such appointment confirmed by the Council prior to the expiration of the existing term. The term of each appointee shall be established and stated at the time of his or her appointment, and terms of present Board and Commission members may be re-established and changed so as to give effect to this Section. New appointees shall assume office on the first day of the first month following their appointment and qualification, or on the first day of the first month following the expiration of the prior term and qualification, whichever shall occur last. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term. No appointed Board or Commission member shall be an employee of the City, but an ex officio member may be so employed. All appointed Board and Commission members shall serve without remuneration, but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the Council before they were incurred. The Chairman and Secretary shall be chosen from and by the Board or Commission membership annually to serve for one (1) year, provided that no Chairman shall be elected who has not completed at least one (1) year as a member of the Board or Commission. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and his or her position filled as any other vacancy. Each Board and Commission shall hold its regular meetings at a time established and approved by the Council. Except as otherwise provided, this Section shall apply to all Boards and Commissions.

250.02. Library Board.

Subd. 1. Establishment and Composition. A Library Board composed of seven members is hereby established for the purpose of advising the Council as to management and operation of the City Library. Board members shall serve staggered three (3) year terms. No member shall be eligible to serve more than three consecutive three (3) year terms.

Subd. 2. Duties. The Library Board shall adopt bylaws and regulations for the government of the library and for the conduct of its business as may be expedient and conformable to law. It shall have exclusive control of the expenditures of all money collected for and placed to the credit of the library fund and the construction, maintenance, and use of all library buildings and grounds. With the approval of the Council, the Library Board may purchase land and erect library buildings thereon. The City Council shall have all authority over hiring, termination and compensation of employees of the library.

Subd. 3. Annual Report. The Library Board shall report to the Council all amounts received, the amounts expended, the number of library materials on hand, purchased and loaned and other information it deems advisable as soon as possible following the end of the fiscal year.

250.03. Planning Commission.

Subd. 1. Establishment and Composition. A Planning Commission is hereby established. The Commission shall be composed of seven (7) members who shall serve six (6) year terms. Six (6) of the seven members shall be citizens appointed by the City Council, and one (1) member shall
be a councilperson appointed by the Mayor. Except in cases of vacancies, one (1) member shall be appointed each year and take office January first. Each year the Council shall designate a member to serve as the Commission’s Chairperson and Vice-chairperson. The Clerk-Administrator shall serve as a non-voting secretary for the commission and shall report to the Council the Commission’s findings and recommendations. In the case of vacancies, the City Council shall fill the vacancy by appointment to serve the remaining term of the member.

Subd. 2. Powers and Duties. The Planning Commission shall have all of the powers and duties defined or granted in the Statutes and the City Code relating to planning, zoning and subdivision regulation, and shall act in an advisory capacity to the Council in all such areas.

250.04. Board of Zoning Adjustments and Appeals.

Subd. 1. Establishment and Composition. A Board of Zoning Adjustments and Appeals is hereby established. The Board shall be composed of the members of the Council.

Subd. 2. Powers and Duties. It is the duty of the Board of Zoning Adjustments and Appeals to hear and decide appeals from any decision of the Zoning Administrator, to interpret the meaning of the Zoning Chapter of the City Code in cases of ambiguity, to make rulings with respect to the application thereof, and to review and decide applications for variances from the provisions of the Zoning Chapter and applications for conditional use permits and to take final action thereon.

250.05 Board of Building Appeals. A Board of Building Appeals is hereby established consisting of three (3) members. The Vice Mayor and the Chairman of the Planning Commission shall be members. The third member shall be a person from the local community who is qualified by experience and training to determine matters pertaining to building construction and who shall be appointed by the Council for each individual appeal. The Building Inspector shall be an ex officio member and shall act as secretary of such Board. The Board shall be appointed as other Boards and Commissions of the City and shall hold office at the pleasure of the City Council. The Board shall adopt reasonable rules and regulations for conducting any investigation that may be necessary and shall render all decisions and findings in writing to the Building Inspector with a duplicate copy to the appellant and may recommend to the Council such new legislation as is consistent therewith.

250.06. Economic Development Authority.

Subd. 1. Establishment and Authority. The Council hereby finds that it is in the best interests of the City to establish the Authority pursuant to State law and declares that Authority to be so established as a public body corporate and political subdivision of the State of Minnesota.

Subd. 2. Commissioners. The Authority shall consist of seven (7) commissioners of whom two (2) shall be members of the City Council. Members shall be appointed by resolution of the City Council for staggered six (6) year terms in accordance with Minnesota Law.

Subd. 3. Powers. The Authority shall have all the powers of an economic development authority under Minnesota Statutes, except as otherwise provided in this Subsection. The powers of the Authority are limited as follows:

A. The Authority must transfer any portion of the reserves generated by the activities that the Council may determine is not necessary for the successful operation of the Authority to the debt service fund of the City to be used solely to reduce tax levies for bonded indebtedness by the City.
B. The sale of all bonds or obligations issued by the Authority must be approved by the City Council before their issuance.

C. The Authority must follow the budget process for City departments as provided by the City and as implemented by the Council and the Mayor of the City.

D. All official actions of the Authority must be consistent with the City’s comprehensive plan and any official controls implementing said comprehensive plan.

E. The Authority must submit all planned activities for influencing the action of any other governmental agency, subdivision or body to the Council for approval.

F. The Authority must submit its administrative structure and management practices to the Council for approval.

Subd. 4. Annual Budget. Pursuant to Minn. Stat. Section 469.100, Subdivision 2, the Authority shall send to the Council on or before September 1 of each year an annual budget of the Authority, including a detailed written estimate of the amount of money that the Authority expects to need from the City to do Authority business during the next fiscal year.

Subd. 5. Annual Report. Pursuant to Minn. Stat. Section 469.100, Subdivision 4, the Authority shall make a written report to the Council on the first scheduled meeting in March of each year including a detailed account of the Authority’s activities and or its receipts and expenditures during the preceding calendar year.

Subd. 6. Modifications. This Section may be modified only by written resolution of the Council adopted after notice and public hearing as required by Section 469.093 of the Minnesota Statutes.

250.07. Blue Earth Airport Advisory Commission.

Subd. 1. Establishment and Composition. An Airport Advisory Commission is hereby established for the use of advising the Council as to the management and operation of the Blue Earth Municipal Airport. The Commission shall be composed of seven (7) members who shall serve staggered terms as follows: Four existing members shall be appointed to serve four-year terms, and three existing members shall be appointed to serve two-year terms effective January 1, 2004. All future terms of office will be four-year terms. The Clerk-Administrator shall serve as non-voting secretary to the Commission and shall report to the Council the Commission’s findings and recommendations.

Subd. 2. Duties. The duties of the Airport Advisory Commission are as follows:

A. To advise the Council as to the management, operation, and development of the Blue Earth Municipal Airport.

B. To hold any such meetings as may be necessary for the conduct of its business and to furnish the Council with a true and correct copy of all the minutes of its proceedings.

C. To act in an advisory capacity to the council in areas which the Council may direct.

250.09. Housing and Redevelopment Authority.

Subd. 1. Establishment and Composition. An authority to be known as the “Housing and Redevelopment Authority of the City of Blue Earth” (hereinafter “Authority”) is hereby established. The Authority shall consist of six (6) members, known as Commissioners, who shall be appointed by the Mayor and confirmed by the City Council. The Commissioners shall serve staggered five (5)
year terms.

**Subd. 2. Powers of the Authority.** The Housing and Redevelopment Authority shall have all authority and powers granted to such authorities by the laws of the State of Minnesota. The Authority shall also serve as an advisory body to the Council on any housing or other issue that the Council deems appropriate.

250.10. Senior Center Board.

**Subd. 1. Establishment and Composition.** A Senior Center Board is hereby established. The Board shall consist of six (6) at large members serving staggered three (3) year terms with at least one (1) new member appointed each year. A representative of the nutrition program, a representative of the senior club and all paid staff of the Senior Center shall serve as ex-officio members to the Senior Center Board with no voting privileges. All members of the Board shall be appointed by the Mayor and approved by the Council. All appointments shall be recommended to the Mayor by the President of the Board. The Council shall also appoint a Councilmember to serve as a liaison between the Board and the Council.

**Subd. 2. Powers of the Senior Center Board.** The Senior Center Board shall have the power to determine the rules, by-laws and regulations for the use of the Senior Center, subject to the approval of the Council. The Board shall also have the authority to spend any funds specified within the annual Senior Center Budget authorized by the Council. The Board shall also advise the Council on any matter concerning the Senior Center or any other issue in which Council deems advice of the Board is appropriate.

250.11. Fitness Center Board.

**Subd. 1. Establishment and Composition.** The management of the Fitness Center is hereby vested in a Board consisting of nine (9) members subject to the mandates of the City Council. Seven (7) members of the Board shall be members of the general community, appointed by the Mayor and approved by the Council. One (1) member shall be a member of the City Council. The final member shall be appointed by the Faribault County Fair Board. All members shall serve staggered three (3) year terms with three (3) new members being appointed each year.

**Subd. 2. Powers and Duties.** The Fitness Center Board of Directors shall have all the power necessary to maintain, operate, staff, equip, repair, and make improvements to the facilities of the Fitness Center, subject to Council approval. The Board shall have the power to expend funds made available in the Fitness Center annual budget authorized by the Council. The Board shall also serve an advisory role to the Council in any matter which concerns the Fitness Center or any other issue for which the Council deems advice of the Board is appropriate.

250.12. Joint Fire Service Advisory Board.

**Subd. 1. Establishment and Composition.** A Joint Fire Service Advisory Board is hereby established to advise the Fire Department in the providing of service in the townships of Blue Earth, Jo Davies, Pilot Grove, Prescott, Verona and the City of Blue Earth. The Board shall consist of six (6) members. Each Township shall be represented by one (1) member appointed by their respective governing body. The City of Blue Earth shall be represented by a City Councilmember as a member
of the Board. The Clerk-Administrator of the City shall serve as secretary to the Board. The Fire Chief of the City of Blue Earth shall be an ex-officio member of the Board. All members shall serve at the pleasure of their appointing authority.

**Subd. 2. Powers and Duties.** The Board shall advise the City Council in regards to what shall be considered fair compensation for services rendered in fighting fires outside the City. The Board shall also advise the City Council concerning any resolution authorizing the extension of fire services outside the City pursuant Minnesota Statutes, Sections 438.08 and 438.09. The Board shall also advise the City Council regarding the appropriation of funds to defray the expenses of members of the fire department in attending the state convention of the Minnesota State Fire Association, the Minnesota State Fire School and any meeting of the regional firefighter’s association pursuant to Minnesota Statutes, Section 438.11. The Board shall not have any powers relating to any volunteer firefighter’s relief association.


**Subd. 1. Blue Earth Township Board.** A Joint Planning Board between the City of Blue Earth, The County of Faribault and the Township of Blue Earth is hereby established pursuant to Minnesota Statutes, section 462.3585. The Board shall consist of three members, one representative from each of the governmental units comprising the Board. The representative for the City of Blue Earth shall be the Mayor. The Clerk-Administrator shall serve as the administrative staff for the Board.

**Subd. 2. Blue Earth Township Board Powers.** The Board shall serve as the governing body and board of appeals and adjustments for purposes of Minnesota Statutes 462.351 to 462.364 within the two mile area of its jurisdiction as established in Minnesota Statutes, section 462.3585.

**Subd. 3. Jo Davies Township Board.** A Joint Planning Board between the City of Blue Earth, The County of Faribault and the Township of Jo Davies is hereby established pursuant to Minnesota Statutes, section 462.3585. The Board shall consist of three members, one representative from each of the governmental units comprising the Board. The representative for the City of Blue Earth shall be the City Zoning Administrator as appointed by the Mayor. The Clerk-Administrator shall serve as the administrative staff for the Board.

**Subd. 4. Jo Davies Township Board Powers.** The Board shall serve as the governing body and board of appeals and adjustments for purposes of Minnesota Statutes 462.351 to 462.364 within the two mile area of its jurisdiction as established in Minnesota Statutes, section 462.3585.

250.14. Additional Boards, Commissions or Authorities. The Council may by resolution establish such additional Boards, Commissions or Authorities as it deems necessary or desirable. Any resolution establishing such additional Board, Commission or Authority, shall set forth the purpose for which it is established, lines of authority, and such other matters, including financing, as the Council may deem appropriate.
260.01. Disposal of Abandoned, Junk and Unauthorized Motor Vehicles. Abandoned, junk and unauthorized vehicles shall be disposed of by the City in accordance with the provisions of Subsection 520.05 of this Code.

260.02. Disposal of Unclaimed Property.

   Subd. 1. Definition. The term “abandoned property” means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty (60) days and has been declared such by a resolution of the Council.

   Subd. 2. Preliminary Notice. If the Clerk-Administrator knows the identity and whereabouts of the owner, he or she shall serve written notice upon him or her at least thirty (30) days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the Clerk-Administrator, notice shall also be served upon him or her. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty (30) days from the date of such notice.

   Subd. 3. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the Clerk-Administrator shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least ten (10) days prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

   Subd. 4. Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid therefrom. The former owner, if he or she makes claim within six (6) months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

260.03. Disposal of Excess Property.

   Subd. 1. Declaration of Surplus and Authorizing the Sale of Property. The Clerk-Administrator may, from time to time, recommend to the Council that certain personal property (chattels) owned by the City is no longer needed for a municipal purpose and should be sold. By action of the Council, said property shall be declared surplus, the value estimated and the Clerk-Administrator authorized to dispose of said property in the manner stated herein.

   Subd. 2. Surplus Property With a Total Estimated Value of Less Than $10,000. The Clerk-Administrator shall offer for public sale, to the highest bidder, surplus property with a total
estimated value of from $500.00 to $10,000.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten (10) days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the Clerk-Administrator’s option. Such sale shall be by auction.

Subd. 3. Surplus Property With a Total Estimated Value Over $10,000.00. The Clerk-Administrator shall offer for public sale, to the highest bidder, surplus property worth a total estimated value over $10,000.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten (10) days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest sealed bid.

Subd. 4. Receipts From Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.


Subd. 1. City Employees. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers, if they are not directly involved in the sale, if they are the highest bidder, and if at least one (1) week's published or posted notice of sale is given.

Subd. 2. Unlawful Act. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.
Section 270 - Franchises

270.01. Definition. The term “franchise” as used in this Section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City, by the State Legislature or any other authority.

270.02. Franchise Ordinances. The Council may grant franchises by ordinance. No exclusive franchise or privilege shall be granted, unless the proposed grant be first submitted to the voters of the city, and be approved by a majority of those voting thereon. No such franchise shall be granted for a period of more than twenty-five (25) years. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

270.03. Power of Regulation Reserved. The City shall have the right and power to regulate and control the use of City owned land, the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State Legislature or any other authority.

270.04. Conditions in Every Franchise. All conditions specified in this Subsection shall be a part of every franchise even though they may not be expressly contained in the franchise.

Subd. 1. Performance. The grantee shall be subject to and will perform on its part all the terms of this Section and will comply with all pertinent provisions of any City Charter and the City Code, as the same may from time to time be amended.

Subd. 2. Fixing Fares. The grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by an agency of the State of Minnesota, in the manner following:

A. A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation, a fair return upon all money invested.

B. If possible maximum rates and charges shall be arrived at by direct negotiation with the Council.

C. If direct negotiations fail to produce agreement, the Council shall, not less than thirty (30) days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative, the franchisee shall likewise appoint an expert as its representative and the two of them shall appoint a third person, preferably an expert, and the three of them shall constitute a board
of arbitration. The board shall report its findings as soon as possible and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.

**Subd. 3. Public service systems.** The Council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

**Subd. 4. Stock.** The grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

**Subd. 5. No Sales and Leases of Franchises.** No sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the City an instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.

**Subd. 6. Franchise Superstructures.** Every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all facilities for whatsoever purpose used.

**Subd. 7. Franchise Buyouts.** Every franchise shall contain a provision granting the City the right to acquire the same in accordance with statute.

**Subd. 8. Franchise Fees.** The franchisee may be obligated by the City to pay the City fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the City.

**270.05. Further Provisions of Franchises.** The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the Council may deem proper to protect the City's interests, nor shall anything contained in this Section limit any right or power possessed by the City over existing franchises.

**270.06. Franchise Agreements in Effect.** All current franchise agreements entered into by the City are listed in Appendix F to this Code found in Chapter 20 of this Code.
SECTION 280 - DEFERMENT OF SPECIAL ASSESSMENTS

SUBSECTION 280.01 - DEFERMENTS FOR PERSONS AGE 65 OR OLDER

Subd. 1. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability, and the City Clerk is hereby authorized to record the deferment of special assessments where the following conditions are met:

1. The applicant must apply for the deferment not later than 90 days after the assessment is adopted by the City Council.
2. The applicant must be 65 years of age or older or retired by virtue of permanent and total disability.
3. The applicant must be the owner of the property.
4. The applicant must occupy the property as his principal place of residence.
5. The average annual payment for assessments levied against the subject property exceed one percent of the adjusted gross income of the applicant as evidenced by the applicant's most recent federal income tax return. The average annual payment of an assessment shall be the total cost of the assessment divided by the number of years over which it is spread.

Subd. 2. The deferment shall be granted for as long a period of time as the hardship exists and the conditions aforementioned have been met. However, it shall be the duty of the applicant to notify the City Clerk of any change in his status that would affect eligibility for deferment.

Subd. 3. The entire amount of deferred special assessments shall be due within sixty (60) days after loss of eligibility by the applicant. If the special assessment is not paid within the sixty (60) days, the City Clerk shall add thereto interest at a per annum interest rate of two percent (2%) above the bond interest rate and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant demonstrate, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date, including principal and interest, with the balance thereafter paid according to the terms and conditions of the original special assessments or the Council may continue the deferment of the assessment on the basis of exceptional and unusual circumstances of the owner not covered by the deferment guidelines herein as long as said determination to continue the deferment is made in a nondiscriminatory manner and the Council makes written findings as to the reasons for its determination to continue the deferment for said owner.

Subd. 4. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

1. The death of the owner when there is no spouse who is eligible for deferment.
2. The sale, transfer or subdivision of all or any part of the property.
3. Loss of homestead status on the property,
4. Determination by the Council for any reason that immediate or partial payment would impose no hardship.

SUBSECTION 280.02 - DEFERMENTS FOR NATIONAL GUARD OR RESERVE MEMBERS ON ACTIVE DUTY STATUS

Subd. 1. The Council may defer any special assessment on homestead property owned by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service for whom it would be a hardship to make payments for the term of their tour of active duty in the military of the United States of America.

Subd. 2. The option to defer a special assessment on homestead property owned by an active duty member of the Minnesota National Guard or other military reserves branch of the United States Military shall terminate and all amounts accumulated plus applicable interest shall become due upon occurrence of one of the following:

1. The sale, transfer or subdivision of any or all of the property.
2. The return to inactive military duty status by the applicant.
3. The loss of homestead status of the property.

Subd. 3. The entire amount of deferred special assessments shall be due within sixty (60) days after loss of eligibility by the applicant. If the special assessment is not paid within the sixty (60) days, the City Clerk shall add thereto interest at a per annum interest rate of two percent (2%) above the bond interest rate and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant demonstrate, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date, including principal and interest, with the balance thereafter paid according to the terms and conditions of the original special assessments or the Council may continue the deferment of the assessment on the basis of exceptional and unusual circumstances of the owner not covered by the deferment guidelines herein as long as said determination to continue the deferment is made in a nondiscriminatory manner and the Council makes written findings as to the reasons for its determination to continue the deferment for said owner.
CHAPTER 3

MUNICIPAL REGULATION AND LICENSING

Section 300 - General Licensing and Regulation Provisions

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

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

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

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

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

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

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

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

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

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

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

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

A. Applicant's name and citizenship.
B. Applicant's present address and length of time he or she has lived at that address.
C. Applicant's occupation and length of time so engaged.
D. Applicant's addresses and occupations for the three (3) years next preceding the date of application.
E. Names and addresses of applicant's employers, if any, for the three (3) years next
preceding the date of application.

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

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

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

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

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

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

300.03. Action on Application For License.

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

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

Subd. 3. Transfer. A license shall be transferable between persons upon consent of the Council. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this subdivision.

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

Subd. 5. Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable
moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice is to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

**Subd. 6. Duplicate License.** Duplicates of all licenses may be issued by the Clerk-Administrator, without action by the Council, upon licensee’s affidavit that the original has been lost, and upon payment of the fee for issuance of the duplicate license as specified in the City fee schedule. All duplicate licenses shall be clearly marked DUPLICATE.

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

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

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

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

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

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

**Subd. 3. Public Safety.** The granting of a license would be a menace to public safety, health, morals or welfare;

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

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

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

**300.09. Conditional Licenses.** Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.
Section 310 - Solicitors, Peddlers and Transient Merchants

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 6. Duration. An annual license granted under this Section shall be valid for one calendar year from April 15 to April 14. All other licenses granted under this Section shall be valid only during the time period issued on the license.

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

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

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

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

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

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

310.06. **Suspension or Revocation.**

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

A. Fraud, misrepresentation, or incorrect statements on the application form.
B. Fraud, misrepresentation, or incorrect statements made during the course of the licensed activity.
C. Conviction of any offense for which granting of a license could have been denied under this Section.
D. Violation of any provision of this Section.

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

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

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

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

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

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

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

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

   Subd. 1. Noises. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

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

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

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

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

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

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

310.10. Exclusion by Placard. No solicitor, peddler or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting
business as a solicitor, peddler or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3 3/4) inches long and three and three quarter (3 3/4) inches wide with print of at least forty-eight (48) point type stating “No Solicitors, Peddlers or Transient Merchants”, or “Solicitors, Peddlers or Transient Merchants Prohibited”, or a comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.
Section 320 - Retail Sale of Tobacco Products.

320.01. License.

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

Subd. 2. License Fee. The fee for every such license shall be the fee specified in the City’s fee schedule as set periodically by resolution of the Council, subject to any limitations imposed by State law. Every license shall be valid beginning April 15th of the issuance year until April 14th of the following year.

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

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

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

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

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

320.06. Administrative Penalties.

Subd. 1. Licensees. If a licensee or employee of a licensee sells tobacco to a person under the age of eighteen (18) years, or violates any other provision of this Section, the licensee shall be charged an administrative penalty of $75.00. An administrative penalty of $200.00 must be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of $250.00 must be imposed, and the licensee’s authority to sell tobacco at
that location must be suspended for not less than seven (7) days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of an alleged violation and an opportunity for a hearing before the City Council.

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

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

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

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

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

320.07. Self-Service Sales.

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

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

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

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

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

320.10. Suspension and Revocation. Every license may be suspended or revoked by the Council for a violation of any provision of this Section if the licensee has been given a reasonable notice and an opportunity to be heard.
Section 330 - Gambling

330.01. Adoption of State Law by Reference. The provisions of Minn. Stat. Ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of Minn. Stat. Ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

330.02. City May Be More Restrictive Than State Law. The Council is authorized by the provisions of Minn. Stat. §349.213, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on gambling within its limits beyond those contained in Minn. Stat. Ch. 349 as it may be amended from time to time.

330.03. Purpose. The purpose of this ordinance is to regulate lawful gambling within the City of Blue Earth, to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

330.04. Definitions. In addition to the definitions contained in Minn. Stat. §349.12, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

- BOARD, as used in this ordinance, means the State of Minnesota Gambling Control Board.
- CITY, as used in this ordinance, means the City of Blue Earth.
- COUNCIL, as used in this ordinance, means the City Council of the City of Blue Earth.
- LICENSED ORGANIZATION, as used in this ordinance, means an organization licensed by the Board.
- LOCAL PERMIT, as used in this ordinance, means a permit issued by the City.
- TRADE AREA, as used in this ordinance means Faribault County, Minnesota.

330.05. Applicability. This ordinance shall be construed to regulate all forms of lawful gambling within the City except bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed $10, total prizes awarded at a single bingo occasion do not exceed $200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.

330.06. Lawful Gambling Permitted. Lawful gambling is permitted within the city provided it is conducted in accordance with Minn. Stat. §§ 609.75-763, inclusive, as they may be amended from
time to time; Minn. Stat. §§349.11-.23 inclusive as they may be amended from time to time; and this ordinance.

330.07. Council Approval. Lawful gambling authorized by Minn. Stat. §§349.11-.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this ordinance and state law.

330.08. Application and Local Approval of Premises Permits.

Subd. 1. Any organization seeking to obtain a premises permit from the Board shall file with the city clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the Board.

Subd. 2. Upon receipt of an application for issuance of a premises permit, the city clerk shall transmit the application to the chief of police for review and recommendation.

Subd. 3. The chief of police shall investigate the matter and make the review and recommendation to the City Council as soon as possible, but no event later than 45 days following receipt of the notification by the city.

Subd. 4. Organizations applying for a state issued premises permit shall pay the city an investigation fee in an amount set forth in the city fee schedule. This fee shall be refunded if the application is withdrawn before the investigation is commenced. If approved by the City Council and the Board, a licensed organization will be responsible for an annual investigative fee for conducting lawful gambling within the city.

Subd. 5. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

Subd. 6. The Council shall receive the police chief’s report and consider the application within 45 days of the date the application was submitted to the city clerk.

Subd. 7. The Council shall by resolution approve or disapprove the application within 60 days of receipt of the application.

Subd. 8. The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:

(i) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.

(ii) Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.

(iii) Lawful gambling would be conducted at premises other than those for which an on sale liquor license has been issued.

(iv) Lawful gambling would be conducted at more than one (1) premises within the city.
(v) An organization would be permitted to conduct lawful gambling activities at more than one (1) premises in the city.

(vi) More than one licensed organization would be permitted to conduct lawful gambling activities at one (1) premises.

(vii) Failure of the applicant to pay the investigation fee provided by Subdivision 4 within the prescribed time limit.

(viii) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise, the Council shall pass a resolution approving the application.

330.09. Local Permits

Subd. 1. No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by Minn. Stat. §349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by Section 5 of this ordinance.

Subd. 2. Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:

(i) Name and address of the organization requesting the permit.

(ii) Name and address of the officers and person accounting for receipts, expenses, and profits for the event.

(iii) Dates of gambling occasion for which permit is requested.

(iv) Address of premises where event will occur.

(v) Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.

(vi) Estimated value of prizes to be awarded.

Subd. 3. The fee for a local permit shall be as set forth in the city fee schedule. The fee shall be submitted with the application for a local permit. This fee shall be refunded if the application is withdrawn before the investigation is commenced.

Subd. 4. Upon receipt of an application for issuance or renewal of a local permit, the city clerk shall transmit the notification to the chief of police for review and recommendation.

Subd. 5. The chief of police shall investigate the matter and make review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
Subd. 6. The applicant shall be notified in writing of the date on which the Council will consider that recommendation.

Subd. 7. The Council shall receive the public safety department’s report and consider the application within 45 days of the date the application was submitted to the city clerk.

Subd. 8. The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:

(i) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.

(ii) Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.

(iii) The organization has not been in existence in the city for at least three (3) consecutive years prior to the date of application.

(iv) The organization does not have at least thirteen (13) active and voting members.

(v) Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.

(vi) Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.

(vii) Exempted or excluded lawful gambling will occur at more than one (1) premises within the city.

(viii) An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one (1) premises in the city.

(ix) More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one (1) premises.

(x) Failure of the applicant to pay the permit fee provided by subdivision 3 within the prescribed time limit.

(xi) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the Council shall approve the application.

Subd. 9. Local permits shall be valid for one (1) year after the date of issuance unless suspended or revoked.
330.10. Revocation and Suspension of Local Permit.

Subd. 1. A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.

Subd. 2. A license shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by certified or registered mail. If the person refuses to accept notice, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

330.11. License and Permit Display. All permits issued under state law or this ordinance shall be prominently displayed during the permit year at the premises where gambling is conducted.

330.12. Notification of Material Changes to Application. An organization holding a state-issued premises permit or a local permit shall notify the city within ten (10) days in writing whenever any material change is made in the information submitted on the application.


Subd. 1. Each organization’s license to conduct gambling within the City shall expend 50% of its lawful purpose expenditures on lawful purposes conducted within the City’s trade area. The City’s trade area is defined as Faribault County, Minnesota.

Subd. 2. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city’s jurisdiction.

330.15. Records and Reporting.

Subd. 1. Organizations conducting lawful gambling shall file with the city clerk one copy of all records and reports required to be filed with the Board, pursuant to Minn. Stat. Ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.

Subd. 2. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by Section 16. Such report shall be made on a form prescribed by the city and shall be submitted annually.

330.16. Hours of Operation. Lawful gambling shall not be conducted between 1 a.m. and 8 a.m. on any day of the week.

330.17. Penalty. Any person who violates any provision of this ordinance; Minn. Stat. §§609.75-609.763, inclusive as they may be amended from time to time; or Minn. Stat. §§349.11-349.21 as
they may be amended from time to time; or any rules promulgated under those sections, as they may be amended from time to time, shall be guilty of a misdemeanor and subject to a fine of not more than $1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. In addition, violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization’s license.

330.18. **Severability.** If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.
Section 340 - Garbage and Refuse Haulers

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

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

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

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

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

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

340.05. Rates and Standards of Operation.

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

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

Subd. 3. Service Charge Requirements. Licensees shall be required to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected and be prohibited from charging a greater charge on residents who recycle than on residents who do not recycle. Licensees shall comply with the provisions of Minnesota Statutes, Sections 115A.93 and 115A.9301 in setting the charges imposed by this Section.

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

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

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

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

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

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

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

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

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

350.04. Payment and Returns.

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

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

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

B. The amount of tax required to be collected and due for the period.
C. The signature of the person filing the return or that of his or her agent duly authorized in writing.
   D. The period covered by the return.
   E. The amount of uncollectible rental charges subject to the lodging tax.

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

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

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

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

Subd. 2. Extensions May be Granted. Upon a showing of good cause, the Clerk-Administrator may grant an operator one (1) thirty (30) day extension of time within which to file a return and make payment of taxes as required by this Section provided that interest during such period of extension shall be added to the taxes due at the rate of ten percent (10%) per annum.

350.07. Penalties.

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

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

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

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

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

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

350.11. Use of Proceeds.

**Subd. 1. Tourism Promotion.** Ninety-five percent (95%) of the proceeds from the collection of taxes pursuant to this Section shall be used in accordance with Minnesota Statutes Section 469.190 as the same may be amended from time to time to fund a local convention/ tourism bureau for the purpose of marketing and promoting the City as a tourist/convention center. The City may retain the maximum of five (5%) for administrative costs.
Subd. 2. Area Convention and Visitors Bureau. The City by and through an agreement entitled “Agreement for the Establishment of a Convention and Visitors Bureau between the City of Blue Earth and the Blue Earth Area Chamber of Commerce” (hereinafter the “Agreement”) with the Blue Earth Area Chamber of Commerce (hereinafter “Chamber of Commerce”) hereby permits the Chamber of Commerce to create the Blue Earth Area Convention and Visitors Bureau (hereinafter “CVB”). CVB will be funded by the tax set forth herein and pursuant to Minnesota Statute Section 469A.190.


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

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

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

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

Subd. 5. Decision. Any decision rendered by the hearing examiner pursuant to subdivision 4 may be appealed to the City Council. A petition seeking to appeal a decision and a written notice of appeal must be filed with the Clerk-Administrator within ten (10) days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as practicable. The Council shall then review the findings of fact and conclusions to determine whether they are correct. Upon determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse or affirm the decision of the Hearing Examiner or his or her designee upon the same standards as set forth in subdivision 4 of this Subsection.
Section 360 - Animals

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

**Subd. 1. Animal.** The term “animal” means any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

A. Domestic. “Domestic animals” shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non venomous and non-constricting reptiles or amphibians, and other similar animals.

B. Non-Domestic. “Non-domestic animals” shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

1. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards, and jaguars, but excluding commonly accepted domesticated house cats.
2. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackles, 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 descented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
5. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattle snakes, boa constrictors, pit vipers, crocodiles, and alligators.
6. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys, and game fish.

C. Farm. “Farm animals” shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (duck, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stables.

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

**Subd. 3. Dog.** The term “dog” means both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

**Subd. 4. Owner.** The term “owner” means any person, persons, firm, association, or corporation owning, keeping, or harboring an animal.
Subd. 5. At Large. The phrase “at large” means off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

Subd. 6. Release Permit. The phrase “release permit” means a permit issued by the police department for the release of any animal that has been taken into the pound. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement and payment of a release fee periodically set by the Council from time to time plus the cost of keep.

360.02. Dogs and Cats.

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

Subd. 2. Registration Required All dogs and cats over the age of six (6) months must be registered with the City. Registration shall be made with City Hall. Applicants for registration shall file a completed application form provided by the City and shall also provide proof of anti-rabies vaccination of the dog or cat to be registered. Upon filing of a completed application form and the payment of a reasonable registration fee set periodically by resolution of the City Council, The City Clerk-Administrator shall issue to the applicant a Certificate of Registration. The Certificate of Registration shall be valid for a period of three (3) years from the date of the issued Certificate of Registration if the animal has proof of current vaccinations in the year of registration. Otherwise, the Certificate of Registration shall be for the period of time that the latest vaccination is to be effective for the animal and the fee shall be pro-rated appropriately. Upon expiration of the Certificate of Registration, a new application must be filed with the City for each dog and cat.

Subd. 3. Vaccination.
A. All dogs and cats kept, harbored, maintained, or transported within the City shall be vaccinated at least once every two years by a licensed veterinarian for rabies.
B. A certificate of vaccination must be kept in which is stated the date of vaccination, the owner’s name and address, the animal’s name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian’s signature. Upon demand made by a police officer, the owner shall produce or present for examination the required certificate of vaccination for their animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven (7) days in which to present the certificate(s) to the police officer who made the demand. Failure to do so shall be deemed a violation of this Section.

360.03. Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such an animal at the time of adoption of this Code shall have thirty (30) days in which to remove the animal from the City after which time the City may impound the animal as provided for in this Section. An exception shall be
made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

360.04. Farm Animals. Farm animals shall only be kept in an agricultural district of the City, or on a residential lot of at least ten (10) acres in size provided that no animal shelter shall be within three hundred (300) feet of an adjoining piece of property. An exception shall be made to this subsection for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or licensed show or exhibition.

360.05. Kennels.

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

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

360.06. Nuisances.

Subd. 1. Habitual Barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five (5) minutes with less than one (1) minute of interruption. Such barking must also be audible off the owner’s or caretaker’s premises.

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

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

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

360.07. Dangerous Animals.

Subd. 1. Animal Presenting a Danger to the Health and Safety of the City. If, in the reasonable belief of any person or police officer an animal presents an immediate danger to the health and safety of any person, the officer may painlessly kill the animal. Otherwise the person or
officer may apprehend the animal and deliver it to the pound for confinement. In such a case, the owner or keeper of the animal shall be liable for the cost of maintenance provided, and if the animal is destroyed, a charge periodically set by the Council to dispose of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with this Section. The animal may be released to other persons in accordance with this Section.

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

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

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

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

Subd. 6. Findings. If the committee determines after hearing the evidence that the animal presents a threat to public health and safety, the committee shall order the animal destroyed and the costs of euthanization and disposal assessed against the animal owner. A finding by the committee that the animal is a dangerous dog as defined by Minnesota Statutes §347.50 subd. 2 shall be sufficient to support a finding that the animal presents a threat to the animal owner. If the committee determines that the animal does not present a threat to the health and safety of the City, the animal shall be released to the owner. The committee shall issue written findings summarizing the facts relied upon by the committee as the basis of their conclusion and stating the decision of the committee. A copy of the Findings shall be mailed to the animal owner at his/her last known address.

Subd. 7. Cost of Impounding. In all cases, an impounded animal's owner shall pay to the City the costs of impounding the animal.
Subd. 8. Costs on Appeal. If an animal owner appeals the City Administrator’s decision to destroy an animal pursuant to Subd. 4 and the appeal panel concludes that the animal poses a threat to health and safety and orders it destroyed, the animal owner shall pay to the City an administrative fee of $75 in addition to any other costs charged against the animal owner.

360.08. Diseased Animals.

Subd. 1. Running at Large. No person shall keep or allow to be kept on his or her premises, on premises occupied by him or her, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal may be properly registered under this Section.

Subd. 2. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person or police officer. A police officer shall have a qualified veterinarian examine the animal. It the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, a police officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be liable for a fine set periodically by the Council to cover the costs for disposing of the animal, plus the costs of the veterinarian examinations.

360.09. Basic Care. All animals shall receive from their owners or keepers a kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided by this Section.

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

360.11. Impounding.

Subd. 1. Running at Large. Any city official may impound any animal found running at large as shall give notice of the impounding to the owner of such animal, if known. In case the owner is unknown, the officer shall post notice of at the City office that if the animal is not claimed within five (5) regular business days of the posting of the notice, it will be sold or otherwise disposed of. Except as otherwise provided on this Section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

Subd. 2. Biting Animals. Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined on the City Pound or the premises of the owner or keeper for a period of not less than fourteen (14) days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of any costs incurred by the City in caring for the animal. If the biting animal has been inoculated for rabies and
Subd. 3. Right to Redeem Sold Animals. Pursuant to State law, an owner of any animal sold or placed for adoption by the City has two (2) years from the date of the sale or adoption to redeem ownership of his or her animal. In order to redeem, the owner must pay the adopter or buyer of the animal the cost paid to the City as well as a reasonable sum for the boarding of the animal until the date of redemption.

Subd. 4. Reclaiming. All animals conveyed to the pound shall be kept, with kind treatment and sufficient food and water, at least five (5) regular business days, unless sooner reclaimed by their owners or keepers as provided by this Section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this Code:

A. Payment of the Release Fee and receipt of a release permit from the police;
B. Payment of maintenance cost, as provided by the Pound, per day or any part of day while the animal is in said Pound; and
C. If a dog or cat is not registered, payment of the registration fee and valid certificate of vaccination for rabies and distemper shots is required.

Subd. 5. Unclaimed Animals. At the expiration of the five (5) regular business days for the time any animal is impounded, if the animal has not been reclaimed in accordance with the provisions of this Section, the City may let any person claim the animal by complying with all provisions in this Section, or the City may sell the animal to the University of Minnesota, or cause the animal to be painlessly killed and shall properly dispose of the remains thereof. Any monies collected under this Section shall be payable to the City Treasury.
attack humans or domestic animals.

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

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

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

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

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

Subd. 5. Potentially Dangerous Dogs; Registration. If an owner of a dog has been notified by the City that it has been determined that said owner’s dog has been found to be a potentially dangerous dog, said owner must obtain a certificate of registration from the City within 14 days after showing that the owner has satisfactorily met the conditions of Minnesota Statutes Section 347.51 and Section 347.515, as amended. A fee as set forth in the City fee schedule shall be imposed for said certificate. No person shall keep a potentially dangerous dog within city limits that is not registered with the City and for which a certificate of registration has not been issued.

Subd. 6. Confiscation.

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

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

Subd. 7. Reclamation of Dog by Owner. Any seized dog may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presentation of proof of certificate of registration. Any dog not reclaimed within seven (7) days may be disposed of by the City and the owner shall be liable for the costs incurred in disposing of the dog.

360.14. Penalties. Except as otherwise specified in this Section, a violation of any provision of this
Section shall be a petty misdemeanor. A second violation by the same animal shall also be a petty misdemeanor offense. Any violation after the second conviction involving the same animal may be a misdemeanor at the discretion of the office of the City Attorney.

360.15. Urban Chickens.

Subd. 1. Definitions.

A. Brooding means the period of chicken growth when supplemental heat must be provided, due to the bird’s inability to generate enough body heat.

B. Chicken means a domesticated bird that serves as a source of eggs or meat.

C. Coop means the structure for the keeping or housing of chickens permitted by the subsection.

D. Exercise yard means a larger fenced area that provides space for exercise and foraging for the birds when supervised.

E. Hen means a female chicken.

F. Officer means any person designated by the city as an enforcement officer.

G. Poultry means domesticated birds that serve as a source of eggs or meat and that include among commercially important kinds, chickens, turkeys, ducks, geese, peafowl, pigeons, pheasants and others.

H. Rooster means a male chicken.

I. Run means a fully enclosed and covered area attached to a coop where the chickens can roam unsupervised.

Subd. 2. Investigation and Enforcement. Officers designated by the City Council shall have authority in the investigation and enforcement this subsection, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The officer shall make investigations as is necessary and may grant, deny or refuse to renew any application for permit, or terminate an existing permit under this article.

Limitations for each single dwelling residential unit:

(A) No more than five (5) chicken hens shall be housed or kept on any one (1) residential lot in any area of the city with a permit as outlined below.

(B) Roosters are prohibited.

(C) Slaughtering of chickens in the City limits is prohibited except at a licensed processing facility.
(D) Leg banding of all chickens is required. The bands must identify the owner and the owner’s address and telephone number.

(E) A separate coop is required to house the chickens. Coops must be constructed and maintained to meet the following minimum standards:

1. Located in the rear or side yard.
2. Setback at least five (5) feet from the rear or side property lines.
3. Interior floor space – four (4) square feet per bird.
4. Interior height – four (4) to six (6) feet to allow access for cleaning and maintenance.
5. Doors – one (1) standard door to allow humans to access the coop and one (1) for birds (if above ground level, must also provide a stable ramp).
6. Windows – one (1) square foot window per ten (10) square feet floor space. Windows must be able to open for ventilation.
7. Climate control – adequate ventilation and/or insulation to maintain the coop temperature between 32-85 degrees Fahrenheit.
8. Nest boxes – one (1) box per every three (3) hens.
9. Roosts – one and one-half (1 ½) inch diameter or greater, located eighteen (18) inches from the wall and two (2) to three (3) inches above the floor.
10. Rodent proof – coop construction and materials must be adequate to prevent access by rodents.
11. Coops shall be constructed and maintained in a workmanlike manner.

(F) A run or exercise yard is required.

1. Runs must be constructed and maintained to meet the following minimum standards:
   
   (a) Location: rear or side yard.
   (b) Size: Ten (10) square feet per bird, if access to a fenced exercise yard is also available; sixteen (16) square feet per bird, if access to an exercise yard is not available. If the coop is elevated two (2) feet so the hens can access the space beneath, that area may count as a portion of the minimum run footprint.
   (c) Height: Four (4) to Six (6) feet in height to allow access for cleaning
2. Exercise yards must be fenced and is required if the run does not provide at least (16) sixteen square feet per bird. Exercise yards must provide a minimum of one-hundred seventy-four (174) square feet per chicken.

(G) Chickens must not be housed in a residential house or an attached or detached garage, except for brooding purposes only.

(H) All premises on which chicken hens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surrounding must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property. Failure to comply with these conditions may result in the officer removing chickens from the premises or revoking a chicken permit.

(I) All grain and food stored for the use of the hens on a premise with a chicken permit shall be kept in a rodent proof container.

(J) Chicken Hens shall not be kept in such a manner as to constitute a nuisance to the occupants of adjacent property.

(K) Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within forty-eight (48) to seventy-two (72) hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.
(H) All premises on which chicken hens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surrounding must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property. Failure to comply with these conditions may result in the officer removing chickens from the premises or revoking a chicken permit.

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Subd. 3. Permit Required. No person shall own, keep, harbor or have custody of any live chicken without first obtaining a permit in writing from the City. The City shall grant a permit for chicken hens after the applicant has sought the written consent of one hundred (100) percent of the owners or occupants of privately or publicly owned real estate that are located adjacent (i.e., sharing property lines) on the outer boundaries of the premises for which the permit is being requested, or in the alternative, proof that the applicant's property lines are one hundred fifty (150) feet or more from any house.

Where an adjacent property consists of a multiple dwelling or multi-tenant property, the applicant need obtain only the written consent of the owner or manager, or other person in charge of the building. Such written consent shall be required on the initial application and as often thereafter as the officer deems necessary.

No permit fee shall be required for the harboring of chickens that qualify as “emotional” or “medical” support chickens under federal law with proper documentation of the need for such animals and, in such cases, the permit holder shall not be required to have the written consent of the neighboring property owners.

Subd. 4. Application. Any person desiring a permit required under the provisions of this article shall make written application to the city administrator upon a form prescribed by and containing such information as required by the city administrator and officer. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the chickens.

(B) The breed and number of chickens to be maintained on the premises

(C) A site plan of the property showing the location and size of the proposed chicken
coop and run, setbacks from the chicken coop to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, style, and height of fencing proposed to contain the chickens in a run or exercise area. Portable coops and cages are allowed, but portable locations must be included with the site plan.

(D) Statements that the applicant will at all times keep the chickens in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this chapter and grounds for cancellation of the permit.

(E) Such other and further information as may be required by the officer.

Subd. 5. Permit Conditions.

(A) If granted, the permit shall be issued by the city administrator and officer and shall state the conditions, if any, imposed upon the permitted for the keeping of chickens under this permit.

(B) The permit shall specify the restrictions, limitations, conditions and prohibitions which the officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the officer for failure to conform to such restrictions, limitations, prohibitions. Such modification or revocation shall be effective after ten (10) days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintain such chickens.

(C) The granting of a permit under this Subsection does not entitle the permit holder to any other rights as may be granted to farmers or commercial entities relating to equipment used in the course of conducting animal husbandry business.

Subd. 6. Fees/Issuance. For each residential site the fee for a permit is as may be imposed, set, established and fixed by the City Council, by resolution, from time to time.

Subd. 7. Term. The permit period under this section shall expire one (1) year from the date the permit is issued. Permits must be renewed on an annual basis.

Subd. 8. Revocation. The city may revoke any permit issued under this ordinance if the person holding the permit refuses or fails to comply with this ordinance, with any regulations promulgated by the city council pursuant to this ordinance, or with any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten (10) days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

Subd. 9. Violations/Penalty.

(A) Any person violating any of the sections of this ordinance shall be deemed guilty of a
petty misdemeanor.

(B) If any person is found guilty by a court for violation of this section, their permit to own, keep, harbor, or have custody of chickens shall be deemed automatically revoked and no new permit may be issued for a period of one (1) year.

(C) Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including but not limited to the pickup and impounding of chickens.

360.16. Urban Honeybees.

Subd. 1. Definitions.

A. Apiary means any place or location where one or more colonies or nuclei of honeybees are kept.

B. Beekeeper means a person who owns or has charge of one or more colonies of honeybees.

C. Beekeeping Equipment means Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

D. Colony means an aggregate of honeybees consisting principally of workers but having, when perfect one queen and at times drones, brood, combs, and honey.

E. Hive means a structure manufactured to house a colony, including a hive stand, a bottom board, the hive body, frames/combs, queen excluder (optional), inner cover, and outer cover. One HIVE houses one colony consisting of one queen and worker honeybees.

F. Honeybee means any stage of the common honeybee, apis mellifera species of European origin.

G. Lot means a portion of a subdivision or other parcel of land intended for building development or for transfer of.

Subd. 2. Limitations for each single dwelling residential unit.

(A) No more than two (2) hives shall be housed or kept on any one (1) residential lot in any area of the city with a permit as outlined below.

(B) No colony or hive shall be kept or maintained within any front yard. In the case of a corner lot, no colony or hive shall be kept or maintained within the yard abutting an existing or dedicated public street.
(C) No person shall establish or maintain any hive or colony within 30 feet of any occupied dwelling, except the dwelling of the owner of the subject property. If the actual distance between dwellings is less than 30 feet, the location of the hive or colony must be closer to the dwelling of the owner of the subject property than the neighboring property by at least 5 feet.

(D) Hives shall be at least 15 feet from any property line, sidewalk, alley, or public way, as measured from the nearest point on the hive to the property line, sidewalk, alley, or other public right of way.

(E) Only honeybee species which are viable in northern climates according to the Department of Entomology at the University of Minnesota shall be allowed.

(F) Beekeepers shall own and reside at the property upon which said honeybees are kept.

(G) Persons no longer intending to keep honeybees on the subject property shall notify the city in writing and remove the operation.

Subd. 3. Beekeeping Permit Required. No person shall own, keep, harbor or have custody of any live honeybees without first obtaining a permit in writing from the City. The completed application must be filed with the City Administrator and/or designee together with the permit fee 30 days prior to the scheduled City Council meeting date. The City Administrator and/or designee shall review the application and refer the application to the City Council. The city shall send written notice of the Council meeting to residents within 350 feet from the applicant's property. The City Council shall hold a public comment period and make the final decision on the application at a regularly scheduled meeting.

Subd. 4. Application for Beekeeping Permit. Any person desiring a permit required under the provisions of this article shall make written application to the city administrator upon a form prescribed by and containing such information as required by the city administrator and officer. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the honeybees.

(B) A site plan of the property showing the location and size of the proposed hive(s), and the setbacks from the hive(s) to property lines and surrounding buildings (including houses and buildings on adjacent lots), must be included with the site plan.

(C) Statements that the applicant will at all times keep the honeybees in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this chapter and grounds for cancellation of the permit.

(D) Notice in writing of any childcare businesses or schools within 350 feet of the


applicant property.

Subd. 5. Beekeeping Permit Conditions.

(A) If granted, the permit shall be issued by the city administrator and officer and shall state the conditions, if any, imposed upon the permitted for the keeping of honeybees under this permit.

(B) The permit shall specify the restrictions, limitations, conditions and prohibitions which the officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the officer for failure to conform to such restrictions, limitations, prohibitions. Such modification or revocation shall be effective after ten (10) days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintain such honeybees.

(C) The granting of a permit under this Subsection does not entitle the permit holder to any other rights as may be granted to farmers or commercial entities relating to equipment used in the course of conducting animal husbandry business.

Subd. 6. Investigation and Enforcement. Officers designated by the City Council shall have authority in the investigation and enforcement this subsection, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The officer shall make investigations as is necessary and may grant, deny or refuse to renew any application for permit, or terminate an existing permit under this article.

Subd. 7. Fees/Issuance. For each residential site the fee for a permit is as may be imposed, set, established and fixed by the City Council, by resolution, from time to time.

Subd. 8. Term. The permit period under this section shall expire one (1) year from the date the permit is issued. Permits must be renewed on an annual basis.

Subd. 9. Revocation. The city may revoke any permit issued under this ordinance if the person holding the permit refuses or fails to comply with this ordinance, with any regulations promulgated by the city council pursuant to this ordinance, or with any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten (10) days thereafter, humanely dispose of all honeybees being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

Subd. 10. Violations/Penalty.

(A) Any person violating any of the sections of this ordinance shall be deemed guilty of a petty misdemeanor.

(B) If any person is found guilty by a court for violation of this section, their permit to own,
keep, harbor, or have custody of honeybees shall be deemed automatically revoked and no new permit may be issued for a period of one (1) year.

(C) Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including but not limited to the pickup and impounding of honeybees.
370.01. Burning of Leaves. The burning of leaves on private property is permitted under the following circumstances:

   Subd. 1. Dates. Such burning of leaves will only be permitted from September 15 through December 1 only.
   Subd. 2. Observance. A permittee shall be in constant attendance until the fire is completely extinguished.
   Subd. 3. Time. Burning will only be allowed during the hours of 3:00 P.M. until dusk except on Saturday and Sunday burning is allowed from 12:00 P.M. to dusk. All fires shall be completely extinguished by dusk.
   Subd. 4. Location of Fires. Such fires shall not be less than twenty-five (25) feet away from any structure, wood fence, hedge or brush, and not less than five (5) feet away from any property line.
   Subd. 5. Prohibitions. The burning of leaves is prohibited on City streets, boulevards, and any public property by private citizens.
   Subd. 6. Air Pollution Alerts. No open burning of leaves shall take place during an air pollution alert or emergency declared by the Minnesota Pollution Control Agency.
   Subd. 7. Temporary Suspension of Burning. The Clerk-Administrator may temporarily discontinue burning during September 15 to December 1, due to unsafe conditions (i.e. excessive dryness, etc.).
   Subd. 8. Uncontrolled Burning. The burning of leaves shall be in designated controlled areas. Uncontrolled burning of leaves is prohibited.

370.02. Leaf Burning

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

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

   Subd. 2. Penalty. Violation of this Subsection shall be a petty misdemeanor for each day said violation occurs, punishable by a fine of up to $300.00.
380.01. Definitions.

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

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

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

380.03. Building Moving Permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

380.05. Duties of City.

Subd. 1. Standards. The City may not issue a permit if it is determined:
(a) That any application requirement or any fee or deposit to the City, County, or State has not been paid, or any required utility or railroad approval not obtained, or
(b) That the building is too large to move without endangering persons or property in the City, or
(c) The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons or property in the City, or
(d) The building is structurally unsafe and unfit for the purpose that it is being moved.
(e) The applicant’s equipment is unsafe and that persons and property would be endangered by its use.
(f) Zoning regulations or other portions of this Code would be violated by the building in its new location.
(g) Persons or property in the City would be endangered by the moving of the building.
(h) The building in its new location will not comply with any provision of this Code.
Subd. 2. Permit Fees. All deposits, bonds and insurance policies will be returned to the applicant if a permit is not issued. Application fees are not refundable.

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

380.06 Conditions of Permit.

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

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

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

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

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

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

Subd. 7. Restoration of Premises. Permittees must remove all rubbish and materials and fill all excavations to existing grade at the original building site, when located in the City, so that the premises are left in a safe and sanitary condition.
Section 390 – Tattoo Establishments

390.01. Purpose. The purpose of this Section is to regulate tattooing as a business and otherwise in order to protect the health and welfare of the general public.

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

   Subd. 1. CLEAN. The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.
   Subd. 2. COMMISSIONER. The Minnesota Commissioner of Health.
   Subd. 3. GENERAL LICENSE. Any license issued pursuant to this chapter that is not a temporary event license.
   Subd. 4. GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.
   Subd. 5. PRACTITIONER. Any person who engages in the practice of tattooing.
   Subd. 6. TATTOOING. The marking of the skin of a person by insertion of permanent colors by introducing them through puncture of the skin.

390.03. License Required; Exception. It is unlawful for any person to engage in the practice of tattooing, or to operate any establishment where tattooing is practiced, without being licensed pursuant to this section, except that a state licensed physician who engages in the practice of tattooing shall be exempt from these licensing requirements.

   Subd. 1. General or temporary event license. The license may be either a general license or a temporary event license.
   Subd. 2. Temporary event license. Temporary event licenses may be issued for events of no longer than 4 continuous days.

      (a) Number of events. The same person or organization may have no more than 4 tattooing events in the same calendar years.

      (b) Security measures. Security measures proposed for the temporary event must be submitted by the applicant to the Chief of Police for written approval.

390.04. Application for License. Any person desiring a license shall file with the City an application therefor on a form supplied by the City.

   Subd. 1. Signed under oath. All applications shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association or entity, by the manager or managing officer thereof.
Subd. 2. Verification by City. Applications shall be submitted to the City Administrator, who shall verify the information on the application and conduct any necessary investigations to assure compliance with this section.

390.05. Fees. Application and licensing fees shall be in such amounts as may be fixed by resolution of the Council from time to time and shall be paid at the time the application is filed. The application fee is intended to defray costs of investigating and verifying matters set forth in the application and is nonrefundable. The license fee will be refunded if the license is not granted.

390.06. Consideration by City. Within a reasonable period of time after the completion of the license verification process, the Council shall accept or deny the license application in accordance with this section. If the application is denied, the City Administrator shall notify the applicant of the determination in writing by certified mail and regular mail to the applicant at the address provided in the application.

390.07. Posting of License. Each license issued pursuant to this section shall be posted at all times in a conspicuous place on the licensed premises.

390.08. Expiration. General licenses shall expire at 10:00 p.m. on December 31 of each year, and temporary event licenses shall expire at 10:00 p.m. on the date specified on the license.

390.09. Ineligible Persons. No license under this section shall be issued to any natural person, to any partnership with any general or managing partner, or to any corporation or other entity with any manager, proprietor or agent in charge, who:

Subd.1. Is not 18 years of age or older on the date the license application is submitted to the City;
Subd. 2. Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. §364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence or sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed by M.S. §364.03, Subd. 3 as it may be amended from time to time;
Subd. 3. Is not a citizen of the United States, a resident alien, or does not have the legal authority to be employed in the United States;
Subd. 4. Is not of good moral character or repute;
Subd. 5. Knowingly falsifies or misrepresents information on the license application;
Subd. 6. Owes taxes and assessments to the state, county, school district, or city that are due and delinquent; or
Subd. 7. Is not the real party in interest in the business to be licensed.

390.10. Ineligible Locations. The following locations shall be ineligible for a license under this chapter.

Subd. 1. Taxes due. No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid.
(a) In the event a suit is commenced under M.S. §§ 278.01-278.13, as they may be amended from time to time, questioning the amount or validity of taxes, the Council may on application waive strict compliance with this provision.

(b) No waiver may be granted for taxes or any portion thereof which remain unpaid for a period exceeding 1 year after becoming due.

Subd. 2. Improper zoning. No license shall be granted if the property is not properly zoned for tattooing establishments under the City Code.

Subd. 3. Premises licensed for alcoholic beverages. No license shall be granted or renewed if the premises is licensed for the furnishing of alcoholic beverages pursuant to the City Code or is licensed as a sexually-oriented business pursuant to this chapter.

390.11. Restrictions; Requirements.

Subd. 1. Tattoos on minors. It is unlawful for any person to tattoo any person under the age of 18 except in the presence of, and with the written permission of, the parent or legal guardian of the minor.

Subd. 2. Transfers restricted. A license granted under this section is only for the licensee and premises named on the license. No transfer of a license shall be permitted from place-to-place or from person-to-person without first complying with the requirements of an original application.

Subd. 3. Hours of operation. It is unlawful for any person to operate any establishment where tattooing is practiced or permitted, nor to engage in the practice of tattooing, except between the hours of 7:00 a.m. and 10:00 p.m.

Subd. 4. Premises. It is unlawful for any person to engage in the practice of tattooing at any place other than the place or location named or described in the application and license.

(a) The license is only effective for the compact and contiguous space specified in the approved license application.

(b) The licensee shall inform the city in writing and in advance if the licensed premises is to be enlarged, altered, or extended.

Subd. 5. Suspension or revocation. It is unlawful for any person to solicit tattooing business, or to offer to perform or perform tattooing service, while under license suspension or revocation by the city.

Subd. 6. Maintenance of order. The licensee shall be responsible for the conduct of the business and shall at all times maintain conditions of order.

Subd. 7. Employee lists. The licensee shall provide to the city a list of employees who perform tattooing at the licensed establishment and shall verify in writing to the city that each employee has received a copy of this chapter.

Subd. 8. Liability insurance.
(a) Prior to issuance of the license, each licensee shall file with the city a public liability insurance policy or certificate of insurance from a company authorized to do business in Minnesota, insuring the licensee against any and all loss or damage arising out of or resulting from:

(1) The use, operation, or maintenance of the tattooing establishment; and
(2) Engaging in the practice of tattooing.

(b) The policy of insurance shall be in limits of not less than the statutory limits of liability for a Minnesota municipality.

(c) The licensee shall keep the policy in full force and effect during the term of the license, and failure to keep the insurance in full force and effect is grounds for revocation of the license.

390.12. Health and Sanitation Restrictions. It is unlawful for any person to engage in the practice of tattooing at any place in the city without complying with the following regulations.

Subd. 1. Lavatory. Every place where tattooing is practiced shall be equipped with an adequate and conveniently located toilet room and hand lavatory for the accommodation of employees and patrons.

(a) The hand lavatory shall be supplied with hot and cold running water under pressure; shall be maintained in good working order at all times; and shall be kept in a clean and sanitary condition.

(b) Toilet fixtures and seats shall be of a sanitary, open front design, shall be readily cleanable, and shall be kept in a clean and sanitary condition.

(c) Easily cleanable, covered receptacles shall be provided for waste materials.

(d) Every lavatory facility shall be provided with an adequate supply of hand cleansing compound and single-service sanitary towels or hand-drying devices.

Subd. 2. Skin infections. It is unlawful for any person to perform tattooing upon any person having any skin infection or other diseases of the skin.

Subd. 3. Sterilization and disposal of bio-hazardous materials. All needles and razor blades shall be individually prepackaged, pre-sterilized, and disposable, and no such equipment shall be used on more than 1 customer. All bio-hazardous waste shall be disposed of in accordance with law. A licensee may use sterilizing solutions and methods for the purpose of sterilizing instruments other than needles and razor blades only if the licensee first provides to the city written confirmation that the sterilizing solutions and methods are approved by the Commissioner.

Subd. 4. Skin Preparation, aseptic technique. The following procedures shall be used for skin preparation.
(a) Prior to tattooing, the licensee shall ask every person to be tattooed whether he or she has had viral hepatitis in the preceding 6 months. No person suspected of then having viral hepatitis, or of having had viral hepatitis within the preceding 6 months, shall be tattooed unless he or she has the written consent of a licensed physician.

(b) Each practitioner shall scrub his or her hands thoroughly with soap and water and then dry them with a clean towel before and after each tattooing. Practitioners with skin infections of the hand shall not perform any tattooing services.

(c) Whenever it is necessary to shave the skin, pre-packaged, pre-sterilized, disposable, razor blades shall be used. All electric hair clippers shall be sanitized by a method approved by the Commissioner.

(d) The skin area to be tattooed shall be thoroughly cleaned with germicidal soap, rinsed thoroughly with water, and sterilized with an antiseptic solution approved by the Commissioner. Only single service towels and wipes shall be used in the skin cleaning process.

(e) After tattooing, a sterile dressing shall be applied to the tattooed area.

**Subd. 5.** Operating furniture. All tables, chairs, furniture, or area on which a patron receives a tattoo shall be kept in a clean and sanitary condition and either:

(a) Shall be covered by single-service disposable paper or clean linens; or
(b) Shall be impervious to moisture and shall be properly sanitized before and after each tattoo.

**Subd. 6.** Towels. Every practitioner shall provide single-service towels or wipes for each customer or person, and the towels or wipes shall be stored and disposed of in a safe and sanitary manner acceptable to the Commissioner.

**Subd. 7.** Outergarments. Every practitioner shall wear a clean, white, washable outergarment when engaged in the practice of tattooing, and before tattooing the next subject, shall remove, change, and replace with a clean outergarment any such outergarment that becomes contaminated with blood or other body fluids.

**Subd. 8.** Pigments. Pigments used in tattooing shall be sterile and free from bacteria and noxious agents and substances, including mercury. The pigments used from stock solutions for each customer shall be placed in a single-service receptacle, and the receptacles and remaining solution shall be discarded after use on each customer.

**Subd. 9.** Bandages. All bandages and surgical dressings used in connection with the tattooing of any person shall be sterile.

**Subd. 10.** Tattooing room. It is unlawful for any person to engage in the practice of tattooing at or in any place other than a “tattoo room.” Each tattoo room shall be separate and apart from all other areas of the establishment, not less than 100 square feet in area, and properly lighted and ventilated.

**Subd. 11.** Influence of alcohol and drugs. It is unlawful for any person to practice tattooing under the influence of alcoholic beverages or illicit drugs, and it is also unlawful for any person to
practice tattooing upon any other person who is under the influence of alcohol or illicit drugs.

Subd. 12. Written instructions. The practitioner shall provide the person tattooed with printed instructions on the approved care of the tattoo during the healing process.

Subd. 13. Living quarters. No place licensed as a tattoo establishment shall be used or occupied as living or sleeping quarters.


Subd. 1. Misdemeanor. A violation of any of the provisions of this chapter shall be a misdemeanor and shall be punished accordingly. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Subd. 2. Suspension or revocation. The Council may suspend or revoke a license issued pursuant to this chapter for a violation of:

(a) Fraud, misrepresentation, or false statement contained in a license application or a renewal application;

(b) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;

(c) Any violation of this chapter or state law;

(d) A licensee’s criminal conviction that is directly related to the occupation or business licensed as defined by M.S. § 364.03, Subd. 2, as it may be amended from time to time, provided that the licensee cannot show competent evidence of sufficient and present fitness to perform the duties of the licensed occupation or business as defined by M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(e) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the community.

Subd. 3. Notice and hearing. A revocation or suspension by the Council shall be preceded by written notice to the licensee and a hearing. The notice shall state the time, date, and place of the hearing and the nature of the charges against the licensee and shall be mailed by regular and certified mail to the licensee at least 10 days prior to the hearing at the most recent address listed on the license applications.
CHAPTER 4
LIQUOR, WINE AND BEER
LICENSING AND REGULATIONS

Section 400 - General Regulations

400.01. Definitions. As used in this Chapter, the following words and terms shall have the meanings stated:

Subd. 1. Alcoholic Beverage. The phrase “alcoholic beverage” means any beverage containing more than one-half of one percent (.5%) alcohol by volume.

Subd. 2. Applicant. The term “applicant” means any person making an application for a license under this Chapter.

Subd. 3. Application. The term “application” means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the City and uniformly required as a requisite to the consideration of the issuance of a license for a business.

Subd. 4. Beer. The term “beer” means non-intoxicating malt liquor containing not less than one-half of one percent (.5%) alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 5. Club. The term “club” means any corporation duly organized under the laws of this State for civic, fraternal, social, or business purposes, for intellectual improvements or for the promotion of sports, or a congressionally chartered veteran’s organization which shall have more than fifty members, and shall, for more than a year, have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a Board of Directors, Executive Committee, or other similar body at a meeting held for that purpose, none of whose members, officers, agents, or employees are paid directly or indirectly any compensation by way of profit for the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the members or other governing body.

Subd. 6. Hotel. The term “hotel” means an establishment where food and lodging are regularly furnished to transients and which has:

A. A dining room serving the general public at tables having facilities for seating at least thirty (30) guests at one time; and

B. At least ten (10) separate guest rooms.

Subd. 7. Intoxicating liquor. The phrase “intoxicating liquor” means any ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2 per cent of alcohol by weight.

Subd. 8. License. The term “license” means a document, issued by the City, to an applicant permitting him or her to carry on and transact the business stated therein.

Subd. 9. License fee. The phrase “license fee” means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

Subd. 10. Licensee. The term “licensee” means an applicant who, pursuant to his or her
application, holds a valid, current, unexpired and unrevoked license from the City for carrying on the business stated therein.

**Subd. 11. Low Alcohol Malt Liquor.** The phrase “low alcohol Malt liquor” means a fermented malt beverage containing two percent or less of alcohol by weight. Notwithstanding any law or rule to the contrary, if either; (a) the term “low alcohol” appears on the label of the beverage container; or (b) a brewer has provided written certification to the department of public safety establishing an alcoholic content of two percent or less by weight, no further label shall be required on that container.

**Subd. 12. Manufacturer.** The term “manufacturer” means every person who, by any process of manufacturing, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces intoxicating liquor for sale.

**Subd. 13. On-Sale.** The term “on-sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

**Subd. 14. Off-Sale.** The term “off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

**Subd. 15. Package.** The term “package” means a sealed or corked container of alcoholic beverages.

**Subd. 16. Restaurant.** The term “restaurant” means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority.

**Subd. 17. Sale, Sell and Sold.** The terms “sale”, “sell” and “sold” mean all barters and all manners or means of furnishing alcoholic beverages to persons.

**Subd. 18. Wholesaler.** The term “wholesaler” means any person who sells alcoholic beverages to stores to whom sale is permitted under Minnesota Statutes, Section 340A.310, from a stock maintained in a warehouse in this State.

**Subd. 19. Wine.** The term “wine” means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made form other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent (.5%) nor more than 24 percent (24%) alcohol by volume for nonindustrial use.

### 400.02. Applications and Licenses - Procedures and Administration.

**Subd. 1. Application.** All applications shall be made at the office of Clerk-Administrator upon forms prescribed by the proper agency of the State of Minnesota together with such additional information as the Council may desire. All questions asked or information required by the applications forms shall be answered fully and completely by the applicant. All applications for licenses shall be accompanied by a payment to the City of the entire license fee, which fee shall be refunded if the application is rejected.

**Subd. 2. False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work a refusal of license, or if issued, shall render any license issued pursuant
thereafter void and of no effect. No suspension or revocation shall take effect until applicant or
licensee is afforded a hearing by the Council.

Subd. 3. Action.

A. Granting. The Council may approve any application for the period of the
remainder of the then current license year or for the entire ensuing license year. All applications
including proposed license periods must be consistent with this Chapter.

B. Issuing. If an application is approved, the Clerk-Administrator shall forthwith
issue a license pursuant thereto in the form prescribed by the City or the proper agency of the State
of Minnesota, as the case may be, and upon payment of the license fee. All licenses shall expire on
the 15th day of April of each year. For licenses issued and which are to become effective other than
on the first day of the licensed year, the fee to be paid with the application shall be pro rata share of
the annual license fee. Licenses shall be valid only at one location and on the premises therein
described.

C. License Refund in Certain Cases. In the event that, during the license year, the
licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall carry
on the licensed business, or in case the business of the licensee shall cease by reason of his or her
illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under
his or her license, except when such license is revoked, the City shall, upon the happening of any
such event, refund to the licensee, or to his or her estate, such part of the license fee paid by him or
her as corresponds to the time such license had yet to run. In the event of death of the licensee, his
or her personal representative is hereby authorized to continue operation of said business for not
more than ninety (90) days after the death of such licensee.

D. Transfer. No license shall be transferable between persons or to a different
location without prior consent of the Council and the filing of a new application. It is unlawful to
make any transfer in violation of this subpart.

E. Refusal, Revocation and Termination. The Council may, in its sole discretion and
for any reasonable cause, refuse to grant any application, or revoke, or suspend for a period not to
exceed sixty (60) days, any license granted or application made under the provisions of this Chapter.
The Council shall revoke the license upon conviction of any licensee or agent or employee of a
licensee for violation of any law relating to the sale or possession of alcoholic beverages upon
premises of the licensee. If it shall be made to appear at the hearing thereon that such violation was
not willful, the Council may order suspension; provided, that revocation shall be ordered upon the
third such violation or offense. No suspension or revocation shall take effect until the licensee has
been afforded an opportunity for a hearing pursuant to Minnesota Statutes. No license shall be
granted to a person of questionable moral character or business reputation. Licenses shall terminate
only by expiration or revocation.

Subd. 4. Duplicate License. Duplicates of all original licenses may be issued by the Clerk-
Administrator, without action by the Council, upon licensee's affidavit that the original has been lost,
and upon payment of a fee of $2.00 for issuance of the duplicate. All duplicate licenses shall be
clearly marked DUPLICATE.

Subd. 5. Posting.

A. All retail licenses to sell alcoholic beverages must be posted in a conspicuous
place on the premises for which it is used.

B. A premises licensed for the retail sale of alcoholic beverages and a municipal
liquor store must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14 ½ inches wide by 8 inches high as designed by the commissioners of health and public safety, which incorporates the penalties for: (1) driving while under the influence of alcohol; (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and (3) a warning statement regarding drinking alcohol while pregnant.

400.03. Limitation on Ownership. No person shall be granted beer or liquor licenses at more than one location. For the purpose of this Section, any person owning an interest of five percent (5%) or more of the entity to which the license is issued, or such ownership by a member of his or her immediate family, shall be deemed to be a licensee.

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

400.05. Closing Regulations. It is unlawful for any on-sale licensee, including a club, to permit any customer or business invitee upon the licensed premises to be in possession of alcoholic beverages during hours or days when sales are not permitted, except by Council permission.

400.06. Sales to Obviously Intoxicated Persons. No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.
Section 410 - Beer Licenses and Regulations (Non-Intoxicating Malt Liquor)

410.01. Beer License Required. It is unlawful for any person to sell, or keep or offer for on-sale or off-sale, any beer without a license therefor from the City.

410.02 Temporary Beer License.

Subd. 1. Applicant. A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota, and having its registered office and principal place of activity within the City, shall qualify for a temporary on-sale beer license, for serving beer on and off school grounds, and in and out of school buildings.

Subd. 2. Conditions.

A. An application for a temporary license shall state the exact dates and place of proposed temporary sale.

B. No applicant shall qualify for a temporary license for more than a total of ninety (90) days in any calendar year.

C. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, (prior to issuance of the license) a certificate of liability insurance naming the City as an insured during the license period may be required in an amount to be determined by the Council at the time of granting the license.

410.03 Beer License Fees.

Subd. 1. Annual On-Sale License Fee. The annual beer license fee for an on-sale license is the amount specified in the City license fee schedule as periodically set by the Council, subject to any restrictions or limitations specified by State law.

Subd. 2. Annual Off-Sale License Fee. The annual beer license fee for an off-sale license is the amount specified in the City license fee schedule as periodically set by the Council, subject to any restrictions or limitations specified by State law.

Subd. 3. Temporary Beer License Fee. The temporary beer license fee for a temporary license is the amount specified in the City license fee schedule as periodically set by the Council, subject to any restrictions or limitations specified by State law.

The section 410 numbers from 410.03 to 410.07 are all increased by one to show the section headings and numbers for each section as follows:

410.03 Beer License
410.04 Insurance Required
410.05 Persons Eligible
410.06 License Restrictions and Regulations
410.07 Persons Under 21; Illegal Acts
410.08 Unlawful Acts
410.04. Insurance Required. Every person desiring a beer license shall file with the City a liability insurance policy in the amount of $100,000.00 coverage for one person and $300,000.00 coverage for more than one person, $50,000.00 because of injury to or destruction of property of others in any one occurrence, $50,000.00 for loss of means of support of any one person in any one occurrence and $100,000.00 for loss of means of support of two or more persons in any one occurrence, who shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him or her by law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes, Section 340A.801. Such liability insurance policy shall further provide that no cancellation of the same for any cause can be made either by the insured or the insurance company without first given ten (10) days' notice to the City in writing of intention to cancel the same, addressed to the Clerk-Administrator.

410.05. Persons Eligible. No retail license may be issued to:

Subd. 1. Age. A person under 21 years of age;
Subd. 2. Prior Violations. A person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five (5) years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent (5%) of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any person is in any manner interested;
Subd. 3. Moral Character. A person not of good moral character or repute; or
Subd. 4. Manufacturers. A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.
Subd. 5. Felony Convictions. No retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within the last five (5) years of the license application, has been convicted of a felony or a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

410.06. License Restrictions and Regulations.

Subd. 1. Conduct. Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.
Subd. 2. Age of Employees. No person under eighteen (18) years of age shall be employed to sell or serve beer in any on-sale establishment.
Subd. 3. Inspections. No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant, and such police or health officer may seize all liquors found on the licensed premises.
Subd. 4. Gambling. No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate or permit the keeping, possession, or operation on the licensed premises of any gambling devices except gambling equipment may be kept or operated and raffles conducted on
licensed premises and adjoining rooms when the use of the gambling equipment is authorized by Minnesota Statutes Chapter 349 and Section 330 of this Code.

**Subd. 5. No Federal Liquor Dealers.** No beer licensee shall, during the effective period of such license, be the owner or holder of a Federal retail liquor dealer’s tax stamp for the sale of intoxicating liquor, and ownership of holding thereof shall be grounds for revocation.

**Subd. 6. No Manufacturers.** No license shall be granted to a manufacturer of beer or to anyone holding a financial interest in such manufacture.

**Subd. 7. Licensees Must Own Business.** All licensees shall be sole or part owner of the business, trade fixtures and personal property used in connection therewith.

**Subd. 8. Licenses for Both On-Sale and Off-Sale Only.** All licenses shall be issued for both on-sale and off-sale.

**Subd. 9. On Sale Licenses.** All on-sale licenses shall be granted only to restaurants and hotels where food is prepared and served for consumption on the premises, or bona fide clubs. For the purpose of this Section, a restaurant is defined as having facilities for seating not less than thirty (30) guests at one time.

**Subd. 10. Location of Business.** No license shall be granted for any business location within 300 feet of any public school or elementary school, or within 100 feet of any church structure, until a public hearing is held. The Public hearing shall be held within thirty (30) days after the license request has been received. Notice of the hearing shall be published in the official newspaper designated by the Council at least 10 ten (10) days prior to the public hearing. The Clerk-Administrator shall mail the same notice to the owners of property within thirty (30) feet of the outside of the business location proposed to be licensed.

**Subd. 11. Hours of Sale.** No sale of beer shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday, inclusive. Neither shall any beer sale be made on any Sunday between the hours of 1:00 o'clock A.M. and 12:00 o'clock Noon. Establishments holding a "2 A.M. Special License", pursuant to Section 430.04 of the Blue Earth City Code, are allowed to conduct beer sales between 1:00 o'clock A.M. and 2:00 o'clock A.M., with beer sales ceasing at 2:00 o'clock A.M. Monday through Sunday.


**Subd. 1. Consumption.** It is unlawful for any:

A. Retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414 of Minnesota Statutes, to permit any person under the age of twenty-one (21) years to consume alcoholic beverages on the license premises or municipal liquor store; or

B. Person under the age of twenty-one (21) years to consume any alcoholic beverage. If proven by the preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant’s parent or guardian and with the consent of the parent or guardian. As used in this clause, “consume” includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

**Subd. 2. Purchasing.** It is unlawful for any person:

A. To sell, barter, furnish or give alcoholic beverages to a person under twenty-one (21) years of age; except that a parent or guardian of a person under the age of 21 years may give or
furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardi
B. Under the age of twenty-one (21) years to purchase or attempt to purchase any al
C. To induce a person under the age of twenty-one (21) years to purchase or procure any alcoholic bever
Subd. 3. Possession. It is unlawful for a person under the age of twenty-one (21) years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.
Subd. 4. Entering Licensed Premises.
A. It is unlawful for a person under the age of twenty-one (21) years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.
B. Notwithstanding Section 340A.509 of the Minnesota Statutes, no ordinance enacted by the City Council may prohibit 18, 19 or 20 year olds from entering an establishment licensed under this Section to:
1. Perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by Section 340A.412, subd. 10 of the Minnesota Statutes.;
2. Consume meals; and
3. Attend social functions that are held in a portion of the establishment where liquor is not sold.
Subd. 5. Misrepresentation of Age. It is unlawful for a person under the age of twenty-one (21) years to claim to be twenty-one (21) years old or older for the purpose of purchasing alcoholic beverages.
Subd. 6. Proof of Age.
A. For purchasing or consuming alcoholic beverages may be established only by one of the following:
1. A valid driver’s license or identification card, issued by Minnesota, another state, or a province of Canada, and including photograph and date of birth of the licensed person;
2. A valid military identification card issued by the United States Department of Defense; or
3. In the case of a foreign national, for a nation other than Canada, by a valid passport.
B. It is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in this subdivision in selling, bartering, furnishing, or giving the alcoholic beverage.
410.08. Unlawful Acts.
Subd. 1. Inducement. It is unlawful for any person to knowingly induce another to make an illegal sale or purchase of beer.
Subd. 2. Hours of Sale. It is unlawful for any licensee to sell beer on any day, during any hour, when such sales are not permitted by Minnesota Statutes.

Subd. 3. Consumption. It is unlawful for any licensee to allow consumption of beer on licensed premises on any day, or during any hour, when sales of beer are not permitted by Minnesota Statutes.

Subd. 4. Purchase of Beer; Illegal Hours. It is unlawful for any person to purchase or consume beer on licensed premises on any day, or during any hour, when sales of beer are not permitted by Minnesota Statutes.
Section 420 - Intoxicating Liquor and Wine Licenses and Regulations

420.01. Intoxicating Liquor Generally.

Subd. 1. License Required and Certain Sales and Keeping for Sale Prohibited. It is unlawful for any person to be a wholesale or manufacturer of liquor without a license therefore from the State of Minnesota. It is unlawful for any person to sell liquor, or to take, receive or solicit any order for the sale of liquor, or to have liquor in his or her possession for sale without a license therefor from the city. This subdivision shall not apply to natural fermented or fruit juices in the home for family use. The only on-sale licenses issued hereunder shall be to persons for sales within an establishment herein defined as a hotel, motel, restaurant or club.

Subd. 2. Sacramental Wine and Medicinal Liquors Excepted. The prohibition herein shall not apply to possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony, nor to such potable liquors as are prescribed by licensed physicians and dentists for therapeutic purposes, nor to industrial alcohol and its compounds not prepared or used for beverage purposes.

Subd. 3. Brewer Malt Liquor License Required. It is unlawful for any person to be a Brewer Malt Liquor manufacturer without a Brewer’s license therefor issued by the State of Minnesota. It is further unlawful for any person to sell Brewer Malt Liquor products as either a retail Taproom or retail (Growler) off-sale liquor within the City or have in his or her possession for sale of said Brewer Malt Liquor products without a license therefor issued by the City.

420.02. Intoxicating Liquor License Fee. The annual license fee for a retail on-sale intoxicating liquor license is the fee specified in the City license fee schedule as set by the Council, subject to the limitations specified in Section 340A.408, subd. 2, of the Minnesota Statutes. The annual license fee for an off-sale intoxicating license is the fee specified in the City license fee schedule, as set by the Council, subject to the limitations specified in Section 340A.408, subd. 3, of the Minnesota Statutes. The City Council may not increase the intoxicating liquor license fees without first holding a public hearing on the proposed increase where notice of the hearing has been provided to all affected licensees at least thirty (30) days before the date set for the hearing.

420.03. Brewer Malt Liquor License Fees. The annual license fee for a retail Taproom Brewer Malt Liquor license is the fee specified in the City license fee schedule as set by the Council from time to time, subject to the limitations specified in Section 340A.408, Subd. 2 of the Minnesota Statutes. The annual retail (Growler) off-sale Brewer Malt Liquor license fee is the fee specified in the City license fee schedule as set by the City Council, subject to the limitations specified in Section 340A.408, Subd. 3 of the Minnesota Statutes. The City may not increase the Brewer Malt Liquor license fees without first holding a public hearing on the proposed increase where notice of the hearing has been provided to all affected licensees at least thirty (30) days before the date set for the hearing.

420.04. Persons Eligible. No retail license may be issued to:

Subd. 1. Age. A person under twenty-one (21) years of age;
**Subd. 2. Prior Violations.** A person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five (5) years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any person is in any manner interested;

**Subd. 3. Moral Character.** A person not of good moral character or repute;

**Subd. 4. Manufacturers.** A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler; or

**Subd. 5. Felony Convictions.** No retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within the last five (5) years of the license application, has been convicted of a felony or a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

**Subd. 6.** Brewer Taproom Malt Liquor Licenses shall be issued to only those persons who are holders of a valid Minnesota Brewer’s License issued by the State of Minnesota.

**Subd. 7.** A license fee for retail (Growler) off-sale malt liquor sales shall be issued only to those persons who have a license from the Minnesota Commissioner of Public Safety to brew no more than 3,500 barrels of malt liquor per year.

420.05. Intoxicating Liquor License Restrictions and Regulations.

**Subd. 1. Manufacturer’s or Wholesaler’s Interest in Retail Establishment.** A holder of a license as a manufacturer, brewer or wholesaler may not have any ownership in whole or in part in a business holding a retail intoxicating liquor license or non-intoxicating malt liquor license except for retail Taproom malt liquor license holders and retail off-sale malt liquor license holders who may own, in whole or in part, the business and/or premises without restriction.

**Subd. 2. Licenses Limited to Certain Areas.** No on-sale license shall be effective beyond the compact and contiguous space named therein for which the same was granted.

**Subd. 3. Federal Permits as a Condition to License.** No license shall be effective until a permit shall be issued to the licensee under the laws of the united States, if such a permit be required under such laws.

**Subd. 4. Number of Licenses.** The Council may issue five (5) on-sale liquor licenses which licenses shall be issued to hotels and restaurants only. For purposes of this Section, a restaurant is defined as having facilities for seating not less than thirty (30) guests at one time.

**Subd. 5. Insurance Required.** Every person desiring a liquor license shall file with the City a liability insurance policy in the amount of $100,000.00 coverage for one person and $300,000.00 coverage for more than one person, $50,000.00 because of injury to or destruction of property of others in any one occurrence, $50,000.00 for loss of means of support of any one person in any one occurrence and $100,000.00 for loss of means of support of two or more persons in any one occurrence, which shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him or her by law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes, Section 340A.801. Such liability insurance policy shall further provide that no cancellation of the same for any cause can be
made either by the insured or the insurance company without first given ten days notice to the City in writing of intention to cancel the same, addressed to the Clerk-Administrator.

**Subd. 6. Conduct of Business.** Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order therein, and for compliance, by himself of all agents and employees, with the provisions of the City Code and all laws relating to the operation of his business.

**Subd. 7. Right of Inspection.** No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant.

**Subd. 8. Minors.** No persons under the age of eighteen (18) years of age shall be employed upon licensed premises, or in any rooms constituting the same, except that persons under the age of 18 years of age may be employed as musicians or to perform the duties of a busboy or dishwashing services in places defined as a restaurant, hotel or motel serving food in rooms in which intoxicating liquors are sold.

**Subd. 9. Employees Ineligible.** No person shall be employed on a licensed premises who has been criminally convicted for violating any law relating to the manufacture, sale or transportation of intoxicating liquors or controlled substances punishable as a gross misdemeanor or felony.

**Subd. 10. Ownership.** All licensees shall be sole or part owner of the business, trade fixtures and personal property used in connection therewith.

**420.06. Places Ineligible For License.**

**Subd. 1. Property Taxes Owed to City.** No license shall be granted, or renewed for operation on any premises, on which taxes, assessments or other financial claims of the City or of the state are due, delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of Minnesota Statutes, Chapter 278 questioning the amount or validity of the taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

**Subd. 2. Location.** No license shall be granted for premises within 300 feet of any public high school or elementary school structure or 100 feet of any church structure until a public hearing is held. The public hearing shall be held within thirty (30) days after the license request has been received. Notice of the hearing shall be published in the official newspaper designated by the Council at least ten days prior to the public hearing the city Clerk shall mail the same notice to the owners of property within 300 feet of the outside of the building proposed to be licensed.

**Subd. 3. Parking Requirements.** Off-street parking of one suitable parking place for each three customers who can be seated in the normal manner shall be available on or adjacent to the licensed premises.

**Subd. 4. On-Sale Licensees.** Any on-sale licensee must serve meals with a menu and on a regular basis during hours open with a seating capacity of at least thirty (30) persons under ordinary conditions.

**420.07. Intoxicating Liquor Sale Regulation.**
Subd. 1. Gambling. No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate or permit the keeping, possession, or operation on the licensed premises of any gambling devices except gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by Minnesota Statutes Chapter 349. Lottery tickets may also be purchased and sold within the premises as authorized by the director of the lottery under Minnesota Statutes, Chapter 349A.

Subd. 2. Prostitution. No prostitute or person of known immoral character or disorderly person be permitted on such premises.

Subd. 3. Unlawful Sales. It is unlawful for any licensee or employee thereof to sell or serve liquor to any person who is obviously intoxicated, or to any minor, or to permit any minor to consume on the licensed premises.

420.08. Hours and Days of Liquor Sale. No off-sale liquor sales shall be made on Sundays, except for Beer Growlers brewed and sold by a licensed brewer who holds a wholesaler’s license issued by the State of Minnesota, which may be sold between the hours of 10:00 a.m. and 10:00 p.m. on Sundays. No off-sale liquor sales shall be made before 8:00 o'clock A.M. or after 10:00 o'clock P.M. on Monday through Saturday. No on-sale liquor sales shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on Monday through Saturday. No on-sale liquor sales shall be made after 1:00 o'clock A.M. Sunday, or until 8:00 o'clock A.M. on Monday, unless the establishment holds a “Special Sunday Liquor License” pursuant to Section 430.05 of the Blue Earth City Code. Establishments holding a “Special Sunday Liquor License” shall be allowed to conduct on-sale liquor sales between the hours of 10:00 o'clock A.M. on Sunday and 1:00 o'clock A.M. on Monday. Establishments holding a "2 A.M. Special License" pursuant to Section 430.04 of the Blue Earth City Code, are allowed to conduct on-sale liquor sales between 1:00 o'clock A.M. and 2:00 o'clock A.M., with all on-sale liquor sales ceasing at 2:00 o'clock A.M., Tuesday through Sunday. Those establishments holding both a “2 A.M. Special License” and a “Special Sunday Liquor License” are allowed to conduct on-sale liquor sales between 1:00 o’clock A.M. and 2:00 o’clock A.M. Monday. No off-sale liquor sales shall be made on Thanksgiving Day; or Christmas Day, December 25; and no off-sale liquor sales shall be made on December 24 after 8:00 o'clock P.M.


Subd. 1. Consumption. It is unlawful for any:
A. Retail intoxicating liquor, 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414 of Minnesota Statutes, to permit any person under the age of twenty-one (21) years to consume alcoholic beverages on the licenses premises or municipal liquor store; or
B. Person under the age of twenty-one (21) years to consume any alcoholic beverage. If proven by the preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant’s parent or guardian and with the consent of the parent or guardian. As used in this clause, “consume” includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Subd. 2. Purchasing. It is unlawful for any person:
A. To sell, barter, furnish or give alcoholic beverages to a person under twenty-one
(21) years of age; except that a parent or guardian of a person under the age of twenty-one (21) years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian if proven by a preponderance of the evidence.

B. Under the age of twenty-one (21) years to purchase or attempt to purchase any alcoholic beverage; or

C. To induce a person under the age of twenty-one (21) years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person’s driver’s license, Permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

Subd. 3. Possession. It is unlawful for a person under the age of twenty-one (21) years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. Entering Licensed Premises.

A. It is unlawful for a person under the age of twenty-one (21) years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

B. Notwithstanding Section 340A.509 of the Minnesota Statutes, no ordinance enacted by the City Council may prohibit 18, 19 or 20 year olds from entering an establishment licensed under this Section to:
   1. Perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by Section 340A.412, subd. 10 of the Minnesota Statutes.;
   2. Consume meals; and
   3. Attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. Misrepresentation of Age. It is unlawful for a person under the age of twenty-one (21) years to claim to be twenty-one (21) years old or older for the purpose of purchasing alcoholic beverages.

Subd. 6. Proof of Age.

A. For purchasing or consuming alcoholic beverages may be established only by one of the following:
   1. A valid driver’s license or identification card, issued by Minnesota, another state, or a province of Canada, and including photograph and date of birth of the licensed person;
   2. A valid military identification card issued by the United States Department of Defense; or
   3. In the case of a foreign national, for a nation other than Canada, by a valid passport.

B. It is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in this subdivision in selling, bartering, furnishing, or giving the alcoholic beverage.

420.10. On-Sale Wine License.

Subd. 1. License Required. It is unlawful for any person to sell, or keep or offer for sale,
any wine seven percent (7%) nor more containing not less than 24 percent (24%) alcohol by volume, without a license therefor from the City.

**Subd. 2. On-Sale Wine License Fee.** The annual on-sale wine license fee is the amount specified in the City license fee schedule as set by the Council, limited to one-half the amount set for the license fee charged for an on-sale intoxicating liquor license, or $2,000.00, whichever is less.

**Subd. 3. Wine License Restrictions and Regulations.**

A. Insurance Required. Every person desiring a wine license shall file with the City a liability insurance policy in the amount of $100,000.00 coverage for one person and $300,000.00 coverage for more than one person, $50,000.00 because of injury or destruction of property of other in any one occurrence, $50,000.00 for loss of means of support of any one person in any one occurrence and $100,000.00 for loss of means of support of two or more persons in any one occurrence, which shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him by law for injuries or damage to insured by reason of Minnesota Statutes, Section 340A. 801. Such liability insurance policy shall further provide that no cancellation of the same for any cause can be made either by the insured or the insurance company without first given ten (10) days notice to the City in writing of intention to cancel the same, addressed to the Clerk-Administrator.

B. No license shall be granted to any person made ineligible for such license by State Law, nor to an individual who is not a resident of the City.

C. No wine license shall be issued for any restaurant ineligible for such license under state law. For the purpose of this Section, a restaurant is defined as having facilities for seating not less than thirty (30) guests at one time.

D. No on-sale of wine shall be made between 1:00 o’clock A.M. and 10:00 o’clock A.M. Monday through Saturday, nor between 1:00 o’clock A.M. and 10:00 o’clock A.M. Sunday. Establishments holding a "2 A.M. Special License", pursuant to Section 430.04 of the Blue Earth City Code, are allowed to conduct on-sale wine sales between 1:00 o'clock A.M. and 2:00 o'clock A.M. daily, with all on-sale wine sales ceasing at 2:00 o'clock A.M. Monday through Sunday.

E. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

F. No license shall be granted for premises within 300 feet of any private high school or elementary school structure or 100 feet of any church structure until a public hearing is held. The public hearing shall be held within thirty (30) days after the license request has been received. Notice of the hearing shall be published in the official newspaper designated by the Council at least ten (10) days prior to the public hearing. The Clerk-Administrator shall mail the same notice to the owners of property within the 300 feet of the outside of the building proposed to be licensed.

G. No licensee shall display wine to the public during hours when the sale of wine is prohibited

H. No licensee shall possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp.

I. No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant.

J. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.
420.11. Temporary “On-Sale” Liquor Licenses. The City may issue to a club, charitable, religious, or other nonprofit organization in existence for at least three years, or to a political committee registered under Section 10A.14 of the Minnesota Statutes, a temporary license for the on-sale of intoxicating liquor on connection with a social event sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable. Licenses issued under this Section are not valid unless first approved by the commissioner of public safety.


Subd. 1. Licensees. If a licensee or an employee of a licensee commits an act enumerated in Minnesota Statute §340A.415, or violates any other sales regulation of this Section, then the licensee shall be charged an administrative penalty of $200.00. An administrative penalty of $400.00 must be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of $600.00 must be imposed.

Subd. 2. Revocation or Suspension of License. Nothing in this subsection shall prohibit the City of Blue Earth from suspending or revoking a license holder’s license to sell liquor, wine, and/or beer upon finding a violation of Section 320 of the Blue Earth City Code pursuant to Subsection 320.10 thereof.
Section 430 - Other Licenses and Regulations

430.01. Clubs.

Subd. 1. Club License Required. It is unlawful for any club to sell or keep or offer for sale any liquor without a license therefor from the City.

Subd. 2. Club License Fee. The annual club license fee is the fee as set in the City’s fee schedule, as periodically set by resolution of the Council, subject to any limitations imposed by State law.

Subd. 3. Club License Restrictions and Regulations.
   A. No club shall sell liquor to persons other than its members and their bona fide guests.
   B. All liquor license restrictions, liquor sale regulations and hours and days of liquor sales, as stated in this Chapter and relating to the on-sale of liquor, shall be binding upon all club licensees.

430.02. Consumption and Display of Liquor.

Subd. 1. License Required. It is unlawful for any private club or public place to allow the consumption or display of liquor or the serving of any liquid for the purpose of mixing liquor without a license therefor from the City.

Subd. 2. License Fee. The annual consumption and display license fee set in the City’s fee schedule, as periodically set by resolution of the Council, subject to any limitation imposed by State law.

Subd. 3. Consumption and Display Restrictions and Regulations.
   A. It is unlawful to consume or allow consumption or display of liquor in any private club or public place during the days and hours other than those permitted for on-sale liquor by any other on-sale liquor licensee.
   B. Any private club or public place allowing the consumption or display of liquor shall be open for inspection at all times by authorized peace officers and it is unlawful to refuse to permit such peace officers to inspect such premises.
   C. Liquor sold, served or displayed in violation of this Section shall be subject to seizure for purposes of evidence.

430.03. Municipal Liquor Store.

Subd. 1. Authority. The City hereby has the authority to own and operate a municipal liquor store which may sell at off-sale only, all items authorized for sale at an exclusive liquor store by Section 340A.413, subd. 14, of the Minnesota Statutes.

Subd. 2. Continuation. If the report of the operations of the municipal liquor store shows a net loss prior to interfund transfer in any two (2) of three (3) consecutive years, the City Council shall, not more than forty-five (45) days prior to the end of the fiscal year following the three (3) year period, hold a public hearing on the question of whether the City shall continue to operate a municipal liquor store. Two (2) weeks notice of the hearing must be printed in the City’s official
newspaper. Following the hearing, the City Council may on its own motion or shall upon a petition of five percent (5%) or more of the registered voters of the City, submit to the voters at a general or special municipal election the question of whether the City shall continue or discontinue municipal liquor store operations by a date which the City Council shall designate. The date designated for discontinuance shall not be more than thirty (30) months after the date of the election.

Subd. 3. Financial Responsibility. The municipal liquor store must demonstrate proof of financial responsibility required of licensees under Section 340A.409 of the Minnesota Statutes. Proof of financial responsibility must be filed with the appropriate state agency by January 15 of each year or operations of the municipal may be subject to suspension by the State.

430.04. 2:00 A.M. Special License.

Subd. 1. License Required. Any licensed on-sale establishment wishing to sell beer, liquor, or wine between the hours of 1:00 o’clock A.M. and 2:00 o’clock A.M. daily must have first obtained a license from the City.

Subd. 2. License Fee. The annual 2:00 A.M. Special License fee is set in the City’s fee schedule, as periodically set by resolution of the Council, and is subject to any limitation imposed by State law.

Subd. 3. Restrictions and Regulations. All beer, liquor, and wine sales conducted with a 2:00 A.M. Special License are subject to all restrictions and regulations in the applicable licensing Sections of the Blue Earth City Code, Sections 410 and 420, and to any limitations imposed by State law.

430.05. Special Sunday Liquor License.

Subd. 1. License Required. No licensed on-sale establishment may sell liquor on Sundays between the hours of 12:00 o’clock Noon and 1:00 o’clock A.M. on Monday without first having obtained a Special Sunday Liquor License.

Subd. 2. License Fee. The annual Special Sunday Liquor License fee is set in the City’s fee schedule, as periodically set by resolution of the Council, and is subject to any limitation imposed by State law.

Subd. 3. Restrictions and Regulations. All liquor sales conducted with a Special Sunday Liquor License are subject to all restrictions and regulations in the applicable licensing Sections of the Blue Earth City Code, Section 420, and to any limitations imposed by State law.

430.06. Social Hosts.

Subd. 1. Definitions. For the purposes of Subsection 430.06, the following terms have the following meanings:

A. ALCOHOL
   Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits, including dilutions and mixtures thereof, from whatever source or by whatever process produced.
B. ALCOHOLIC BEVERAGE

Alcohol, spirits, liquor, wine, or beer and which contains 1/2 of 1% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other activity.

C. EVENT or GATHERING

Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

D. HOST

To aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

E. PARENT

Any person having legal custody of a juvenile:

1. As natural adoptive parent;
2. As a legal guardian; or
3. As a person to whom legal custody has been given by order of the court.

F. PERSON

Any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

G. RESIDENCE or PREMISES

Any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

H. UNDERAGE PERSON

Any individual under 21 years of age.
Subd. 2. Purpose and Findings. The Blue Earth City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons less than 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Blue Earth City Council finds that:

A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

B. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdoses or alcohol-related traffic collisions.

C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

D. Often events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and, in some circumstances, provide the alcohol.

E. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

F. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 3. Prohibited Acts.

A. It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does consume any alcohol or alcoholic beverage or possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

B. A person is criminally responsible for violating § 71-14A above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

**Subd. 4. Exceptions.** This Subsection 430.06 does not apply to:

A. Conduct solely between an underage person and his or her parents while present in the parent’s household.

B. Legally protected religious observances.

C. Retail intoxicating liquor or 3.2-percent malt liquor licenses, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, subdivision 1(a)(1).

D. Situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

**Subd. 5. Authority.** This Subsection 430.06 is enacted pursuant to Minn. Stat. § 145A.05, subdivision 1.

**Subd. 6. Endorsement.** This Subsection 430.06 can be enforced by any police officer or sheriff’s deputy in the county.

**Subd. 7. Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this Subsection is, for any reason, held to be unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

**Subd. 8. Penalty.** A violation of § 71-14 is a misdemeanor.
CHAPTER 5

NUISANCES AND OFFENSES

Section 500 - Nuisances in General

500.01. Public Nuisance Defined. Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a petty misdemeanor:

Subd. 1. Acts. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

Subd. 2. Acts in Public Areas. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

Subd. 3. Other. Is guilty of any other act or omission declared by law or this Code to be a public nuisance and for which no sentence is specifically provided.

500.02. Public Nuisances Affecting Health. The following are hereby declared to be nuisances affecting Health.

Subd. 1. Decayed Materials. Exposed accumulation of decayed or unwholesome food or vegetable matter.

Subd. 2. Diseased Animals. All diseased animals running at large.

Subd. 3. Stagnant Water. All ponds or pools of stagnant water.

Subd. 4. Carcasses. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death.

Subd. 5. Manure and Refuse. Accumulations of manure, refuse, or other debris.

Subd. 6. Privy Vaults. Privy vaults and garbage cans which are not rodent free or flytight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors.

Subd. 7. Pollution of Public Water. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.

Subd. 8. Noxious Vegetation. All noxious weeds and other rank growths of vegetation upon public or private property.

Subd. 9. Smoke. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.

Subd. 10. Contagious Disease. All public exposure of people having a contagious disease.

Subd. 11. Offensive Trades. Any offensive trade of business as defined by statute not operating under local license.

500.03. Public Nuisances Affecting Morals and Decency. The following are hereby declared to be nuisances affecting public morals and decency.
Subd. 1. Gambling Devices. All gambling devices, slot machines, and punch boards, except as otherwise authorized in section 330 of this Code.

Subd. 2. Betting Materials. Betting, bookmaking, and all apparatus used in such occupations, except as otherwise authorized in Section 330 of this Code.

Subd. 3. Houses Kept for Immoral Purposes. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.

Subd. 4. Liquor Manufacturing. All places where intoxicating liquor is manufactured in or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place.

Subd. 5. Vehicles Used for Immoral Purposes. Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Subd. 6. Possession of Raw or Rotting Poultry Eggs. Possession of raw or rotting poultry eggs with the intent to cause, engage or assist in offensive or assultive behavior to another person and/or vandalism to another person’s private property or to public property is prohibited. Anyone who violates this subdivision shall be guilty of a petty misdemeanor.

500.04. Public Nuisances Affecting Peace and Safety. The following are declared to be nuisances affecting public peace and safety.

Subd. 1. Snow and Ice Removal. All snow and ice not removed from public sidewalks twenty-four (24) hours, exclusive of Saturday, Sundays or Legal Holidays, after the snow or other precipitation causing the condition has ceased to fall.

Subd. 2. View Obstructions. All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection.

Subd. 3. Traffic Obstructions. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.

Subd. 4. Noise. All unnecessary noises and annoying vibrations.

Subd. 5. Right-of-Way Obstructions. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law.

Subd. 6. Dangerous Aerials. Radio aerials or television antennae erected or maintained in a dangerous manner.

Subd. 7. Crowds. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk.

Subd. 8. Signs. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided for in this Code.

Subd. 9. Precipitation Run-off. The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk only when such run-off is determined to be a hazard.

Subd. 10. Barbed Wire Fencing. Any barbed wire fence less than six (6) feet above
ground and within three (3) feet of a public sidewalk or way.

Subd. 11. Dangerous Machinery. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

Subd. 12. Waste Water. Waste water cast upon or permitted to flow upon streets of other public properties.

Subd. 13. Accumulations Harboring Vermin. Accumulations in the open of discarded or disused machinery, household appliances, automobiles bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from such accumulation.

Subd. 14. Dangerous Excavations. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located.

Subd. 15. Obstructions of Drainage. Obstruction to the free flow of water in a natural waterway of a public street drain, gutter, or ditch, with trash or other materials.

Subd. 16. Sharp Articles. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.

Subd. 17. Garbage. The depositing of garbage or refuse on a public right-of-way or on adjacent private property.

Subd. 18. Discharge of Air-guns or BB-guns. The discharge of any air-gun, air-rifle, BB-gun or other similar device in any manner which may endanger the safety of the public.

Subd. 19. Other. All other conditions or things which are likely to cause injury to the person or property of anyone.

500.05. Nuisances Affecting Public Property. Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure may sustain as a result of any illegal operation of the equipment. This illegal operation includes vehicles weighing in excess of the maximum weight permitted by statute or this Code. When the driver is not the owner of the vehicle, equipment, object, or contrivance, but is operating, driving, or moving the same with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount. This amount shall be collectable by action or as a lien under Minnesota Statutes, Section 514.67.

500.06. Duties of City Officers. The police department shall enforce the provisions of this Section relating to all nuisances. Police officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

500.07. Abatement.

Subd. 1. Notice. Written notice of violation; notice of time, date place, and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this subdivision.
A. Notice of Violation. Written notice of violation shall be served by the officer charged with enforcement or the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, or the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

B. Notice of Council Hearing. Written notice of any council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the owner or record is unknown, or the owner of record or occupant refuses to accept notice of Council hearing, notice of Council hearing shall be served by posting it on the premises.

C. Notice of City Council Order. Except for those cases determined by the City to require summary enforcement, written notice of any City Council order shall be made as provided in Minnesota Statutes, section 463.17.

D. Notice of Motion for Summary Enforcement. Written notice of any motion for summary enforcement shall be made as provided for in Minnesota Statutes, section 463.17.

Subd. 2. Procedure. Whenever the office charged with enforcement determines that a public nuisance is being maintained or exists on the premises in the City, the officer shall notify, in writing the owner of record or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council. Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the Council the City may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

Subd. 3. Emergency Procedure; Summary Enforcement. In the cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in subdivisions 1 and 2 above will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The Enforcement Officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City’s intention to seek summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision 1 above, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

Subd. 4. Immediate Abatement. Nothing in this Section shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

500.08. Recovery of Cost.

Subd. 1. Personal Liability. The owner of premises on which a nuisance has been abated by
the City shall be personally liable for the cost to the City of the abatement, including administrative
costs. As soon as the work has been completed and the cost determined, the Clerk-Administrator or
other official designated by the Council shall prepare a bill for the cost and mail it to the owner.
Thereupon the amount shall be immediately due and payable at the office of the Clerk-
Administrator.

Subd. 2. Assessment. If the nuisance is a public health or safety hazard on private property,
the accumulation of snow and ice on public sidewalks, the growth of grass and weeds on private
property or outside the traveled portion of streets, or unsound or insect-infected trees, the Clerk-
Administrator shall, on or before September 1 next following the abatement of the nuisance, list the
total unpaid charges for current services to be assessed under Minnesota Statutes, section 429.101
against each separate lot or parcel to which the charges are attributable. The Council may then
spread the charges against such property under that statute and other pertinent statutes for
certification to the county auditor and collection along with current taxes the following year or in
annual installments, not exceeding ten (10), as the Council may determine in each case.
510.01. Shade Tree Disease Control and Prevention.

Subd. 1. Declaration of Policy and Adoption of Regulations. The Council hereby determines that the health of Elm, Oak, and other shade trees within the City limits is threatened by fatal diseases known as Dutch Elm and Oak Wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of Elm, Oak, and other trees growing upon public and private property would substantially deprecate the value of property within the City and impair safety, good order, general welfare and convenience of the public. It is therefore declared to be the intention of the Council to control and prevent the spread of those diseases and this Section is enacted for that purpose. As a means of achieving that goal, the Shade Tree program regulations found in Minnesota Rules Section 1505 as amended are hereby adopted by reference and made part of this Code as if set out here in full.

Subd. 2. City Tree Inspector.
A. Position Created. The position of City Tree Inspector is hereby created. The powers and duties of the Tree Inspector shall be as set forth in this Subsection.
B. Duties of the Tree Inspector. It shall be the duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of Dutch Elm and Oak Wilt diseases, and other epidemic diseases of shade trees, as well as control of dead, diseased, or damaged trees, whatever the cause.

Subd. 3. Nuisances Declared. The following are public nuisances whenever they may be found in the City:
A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ceratocystis Ulmi (Buisman, Moreau) or which harbors any of the elm bark beetles Scolytus Multistriatus (Eichh.) or Hylungopinus Rufipes (Marsh).
B. Any dead elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.
C. Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus Ceratocystis fagacearum.
D. Any dead oak tree or part thereof which in the opinion of the Tree Inspector constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide.
E. Any other shade trees with an epidemic disease.
F. Any other standing or fallen tree containing dead branches of limbs that are broken or partially broken and suspended or hanging in such a manner so as to create a hazard to the public safety.

Subd. 4. Abatement. It shall be unlawful for any person to permit any public nuisance as defined in subdivision 3 of this Subsection to remain on any premises owned or controlled by him or her within the City limits. In abating a nuisance, the Tree Inspector shall cause the affected tree or wood to be sprayed, removed, burned, or otherwise effectively destroyed or prevent as completely as
possible the spread of any epidemic disease or to abate the nuisance. He or she shall also take such steps as are necessary to prevent root graft transmission of the diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

Subd. 5. Inspection and Investigation.

A. Frequency of Inspection. As often is practicable, the Tree Inspector shall inspect all public and private premises within the City which might harbor any plant pest as defined by Minnesota Statutes, Section 18.46, subd. 13, to determine whether a condition described in this Subsection exists thereon. He or she shall investigate all reported incidents of infestation by Dutch Elm fungus, Elm Bark beetles, Oak Wilt fungus, and other epidemic disease of shade trees or the existence of dead of damaged trees as defined in this Subsection.

B. Entry of Private Property. The City Tree Inspector or his or her duly authorized agent may enter upon private property at any reasonable time for the purpose of carrying out any of the duties assigned to him or her under this Subsection.

C. Diagnosis. The Tree Inspector shall, upon finding conditions indicating Dutch Elm, Oak Wilt, or other infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as otherwise provided in this Subsection, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.


A. Action by Tree Inspector. Whenever the Tree Inspector finds with reasonable certainty that any condition defined in this Subsection exists in any tree or wood on any public or private place in the City, he or she shall proceed as follows:

1. If the Tree Inspector finds that the danger of infestation of other elm, oak, or other trees is not imminent because of the dormancy of the infected trees, he or she shall make a written report of his or her finding to the Council which shall proceed by either (a) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (b) abating the nuisance as an action of the Council.

2. If the Tree Inspector finds that danger of infestation is imminent, he or she may notify the property owner by certified mail that the nuisance will be abated within a specified time, not less than five (5) days from the date of the notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limit in the notice he or she may abate the nuisance.

3. If the Tree Inspector finds any other conditions described in this Subsection, he or she shall follow the same procedures set forth in subparagraph 2 above.

B. Action By Council. Upon receipt of the Tree Inspector’s report, the Council shall by resolution order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one (1) week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing, the Council shall hear property owners with reference to the scope and desirability of the proposed nuisance abatement. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the
work by day labor or by contract.

C. Record. The Tree Inspector shall keep a record of the costs of abatement done under this Subsection and shall report monthly to the Clerk-Administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

D. Assessment. On or before September 1 of each year, the Clerk-Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Subsection. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

Subd. 7. Interference Prohibited. It shall be unlawful for any person to prevent, delay, or interfere with the Tree Inspector or his or her agents while they are engaged in the performance of duties imposed by this Subsection.

Subd. 8. Transporting Elm Wood Prohibited. It shall be unlawful for any person to transport within the City any bark-bearing elm or oak wood without having obtained a permit from the Tree Inspector. The Tree Inspector shall grant such permits when the purpose of this Subsection will be served thereby.

Subd. 9. Stockpiling of Elm Wood. The stockpiling of bark-bearing elm wood within the City limits shall be permitted during the period from September 15 through April 1 of each year. Any such wood not utilized by April 1 of any year must then be removed and disposed of as provided by this Subsection and the regulations incorporated thereby.

510.02. Unusable and Dangerous Furniture, Household Furnishings and Appliances Stored on Public or Private Property. It is unlawful to store any unusable or dangerous furniture, household furnishings or appliances, or parts or components thereof, on any property, public or private, unless housed within a building, and any violation is hereby declared to be a nuisance.

510.03. Grass and Weeds.

Subd. 1. Cutting of Grass and Weeds. It is unlawful for the owner, occupant or agent of the owner of any lot or parcel of land within the City to allow grass and weeds to exceed a height of five (5) inches, measured from the base at ground level to the tip of each stalk, stem, blade or leaf, to grow upon his or her land. Grass and weeds taller than five (5) inches shall be considered a nuisance and also shall be prima facie evidence of a violation of this Section.

Subd. 2. Notice and Assessment. If such owner, occupant or agent fails to comply with said height limitation, notice of the violation shall be given to him or her from a City officer or employee. The notice shall state that the owner or occupant has three (3) days to abate the nuisance or the City will cut the grass or weeds at the expense of the owner. The notice shall also state that the owner has a right to appeal the order to abate the nuisance within three (3) days. If the nuisance has not been abated within three (3) days of such notice, and no appeal of the order has been made, the City shall cause such grass and weeds to be cut and the expense thereof shall be billed to the property owner due upon receipt of the bill. In the event of non-payment by the property owner, the amount due after September 1 of each year, plus interest, shall be certified by the Council to the County Auditor for collection as a special assessment against the affected property.
**Subd. 3. Appeal.** Any person aggrieved by an order of a City officer or employee to cut grass and weeds on his or her property may appeal the order to the Council by filing a written request with the Clerk-Administrator within three (3) days of receiving notice of the Order. A hearing on the matter shall then be scheduled before the Council and the appellant shall be provided notice stating the time and place for the hearing.

**510.04. Air Pollution Control.**

**Subd. 1. Purpose.** The purpose of Section 510.04 of the City Code is to promote clean air so as to protect the health, safety, and general welfare of the public within the city of Blue Earth.

**Subd. 2. General Burning.** It is unlawful for any person to burn or permit burning of any grass, weeds, leaves, rubbish, treated or finished wood, or other toxic substance upon premises owned or occupied by him or her except as provided within Section 370 of this code.

**Subd. 3. Burning within the General Business District (B-1).** It is unlawful for any person to burn any substance, for any purpose, within all area’s or districts zoned for General Business (B-1) as defined in Chapter 10 of the City Code, unless such burning is specifically excepted for within this Section.

**Subd. 4. Recreational Fires and Large Bon-Fires.** Recreational Fires and Large Bon-Fires shall be exempt from Subdivision 3 of this Section, and are permissible within the City. Recreational Fires shall be limited to a fire set for cooking, warming, recreational, or ceremonial purposes, which is not more than three feet (3’) in diameter by three feet (3’) high and the ground surrounding the fire has been cleared of all combustible material for five feet (5’) from the base of the fire. Large Bon-Fires shall include any fire set for recreational or ceremonial purposes larger than that permitted for Recreational Fires. Large Bon-Fires shall have a clearance of not less than twenty feet (20’) surrounding the fire which has been cleared of all combustible material. Recreational and Large Bon-Fires shall burn untreated and unfinished wood products only.

**Subd. 5. Charcoal and Natural Gas Bar-B-Ques.** Charcoal and Natural Gas Grills and Stoves shall be exempt from Subdivisions 2 and 3 of this Section, and are permissible within the City of Blue Earth for use in cooking. No grill or cooking stove shall be used for heating purposes.

**Subd. 6. Natural Gas Furnaces and Fireplaces.** Natural Gas Furnaces and Fireplaces shall be exempt from Subdivisions 2 and 3 of this Section, and are permissible for use within the City of Blue Earth for recreational and heating purposes.

**Subd. 7. Pollution Control Regulations Adopted.** The pollution Control Regulations Regulating Air, 1972 Edition, as amended in 1976, promulgated by the Minnesota Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. Three copies of said Regulations shall be marked CITY OF BLUE EARTH – OFFICIAL COPY and kept on file in the office of the Clerk-Administrator and open to inspection and use by the public. It is unlawful to violate a provision of this Section or the Pollution Control Regulations Relating to Air hereby adopted by reference.

**510.05. Noise and Vibrations Affecting Peace and Safety.**

**Subd. 1. Unlawful to Make Loud or Unnecessary Noises and/or Vibrations Caused by Sound.** It will be unlawful for any person to make, or cause to be made any loud, unnecessary or unusual noise or vibration, which either annoys, disturbs, or affects the comfort, repose, health, or
peace of others.

**Subd. 2. Unlawful Acts.** The following acts set forth in the following subdivisions are declared to be loud, disturbing, and unnecessary noises or vibrations in violation of this Section, but this enumeration is not exclusive.

A. Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning;

B. Radios, Tapes and Disc Players, etc. The using, operating, or permitting to be played any radio, tape or disc player, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner, considering the time and place and the purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person of ordinary sensibilities.

1. The play, use, or operation of any radio, tape, or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at a distance of 50 feet from such machine or device will be prima facie evidence of a violation of this section. It shall further be prima facie evidence of a violation of this section if a vibration caused by sound can be felt at a distance of 150 feet from such machine or device.

2. When sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle’s owner is guilty of the violation. However, if the vehicle’s owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.

3. This section will not apply to sound produced by the following:
   - Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the City of Blue Earth, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
   - Church bells, chimes or carillons.
   - School bells
   - Anti-theft devices
   - Machines or devices for the production of sound on or in authorized emergency vehicles.

4. With the exception of the machines or devices listed in subsection (3), this section will apply to all radios, tape and disc players, musical instruments, phonographs and machines and devices for the production or reproduction of sound, whether on public or private property.

C. Loud Speakers, Amplifiers for Advertising. The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

D. Exhausts. The discharge into the open air of the exhaust of any vehicle except through a muffler or other device, which will effectively prevent loud or explosive noises there from;
E. Defect in Vehicle or Load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise which will disturb the comfort or repose of any persons in the vicinity;

F. Blowers. The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of aerating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise;

G. Noisy Parties and Gatherings.

(1) Prohibition. No person will, between the hours of 10:00 p.m. and 7:00 a.m. congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. No person will knowingly remain at such a noisy party or gathering.

(2) Evidence. Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring, or in the case of apartment buildings, in the adjacent hallway or apartment, will be prima facie evidence of a violation of this section.

(3) Duty to Disperse. When a City Official determines that a party or gathering is in violation of this section, the official may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person will knowingly remain at such a party or gathering.

(4) Exceptions. The following are exempt from violation of this section:

(i) Activities which are duly authorized, sponsored or licensed by the City of Blue Earth, so long as the activity is conducted pursuant to the conditions or the license, permit or contract authorizing such activity.

(ii) Church bells, chimes or carillons.

(iii) Persons who have gone to a party for the sole purpose of abating the violation.

(5) Penalties. Every owner or tenant of the premises where a party or gathering in violation of this section occurs, who is present at such party or gathering is guilty of a petty misdemeanor. Any person who refuses to disperse from a party or gathering in violation of this section after being ordered by a City Official to do so, is guilty of a petty misdemeanor.

H. Exemptions Authorized by the Blue Earth City Council. Upon special request made by contractors, the Council may exempt contractors performing public works operations from time prohibitions set forth within this section.

Subd. 3. Noise Permits. Any citizen or person may submit an application for a permit to conduct an activity which may produce noise and/or vibrations in a fashion which violates the terms of this section at City Hall. Such permit applications must be approved by a majority vote of the City Council after a public hearing thereon and may contain certain conditions which must be complied with by the permit holder. Permits must be obtained prior to the activity or event which may produce the unlawful noise or vibration.
Section 520 - Offenses

520.01. Unlawful Use and Furnishing of Tobacco.

Subd. 1. Age. It is unlawful for any person, under the age of eighteen (18) years to use or possess tobacco in any form.

Subd. 2. Furnishment. It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of eighteen (18) years.

520.02. Curfew.

Subd. 1. Purpose. The City Council has determined that there has been an increase in juvenile violence, juvenile gang activity and crime by persons under the age of eighteen (18) in the City of Blue Earth; and persons under the age of eighteen (18) are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and the City has an obligation to provide for the protection of minors, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and a curfew for those under the age of eighteen (18) will be in the interest of the public health, safety and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Blue Earth.

Subd. 2. Definitions. For the purpose of this Subsection, the following words and terms shall have the meanings stated:

A. The term “public place” means any place publicly owned or operated, or any commercial establishment open to the general public, whether supervised or not.

B. The term “loitering” means lingering or dawdling in or on any public place or upon private property without the consent of the owner and without any demonstrable legitimate purpose.

C. The term “emergency” means an unforeseen combination of circumstances of the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

D. The term “establishment” means any privately owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

E. The term “guardian” means:

1. A person who, under Court order, is the guardian of the person of a minor; or

2. A public or private agency with whom a minor has been placed by the Court.

F. The term “minor” means any person under the age of eighteen (18) years of age.

G. The term “parent” means a person who is:

1. A natural parent, adoptive parent, or step-parent of another person; or

2. At least eighteen (18) years of age and authorized by a parent or guardian to
have the care and custody of a minor.

H. The term “remain” means to linger, stay or fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

**Subd. 3. Restrictions.**

A. Minors Under the Age of Sixteen. It is unlawful for any minor person under the age of sixteen (16) years to be or loiter upon the streets or public places between the hours of 10:00 o'clock P.M. and 5:00 o'clock A.M. of the following day, without reasonable cause, unless such minor is accompanied by his or her parents, guardian or other adult person having the care and custody of the minor.

B. Minors Between the Ages of Sixteen and Eighteen. It is unlawful for any minor under the age of eighteen (18) years and over sixteen (16) years to be or loiter upon the streets or public places between the hours of 12:00 o'clock midnight and 5:00 o'clock A.M. of the following day without reasonable cause, unless such minor is accompanied by his or her parents, guardian or other adult person having the care and custody of the minor.

C. Parents and Guardians. It is a petty misdemeanor for any parent, guardian or other person having the legal care or custody of any minor person to allow or permit such minor person to be or loiter upon the streets or public places in violation of this Subsection unless such minor is accompanied by a person of lawful age having such minor person in charge.

**Subd. 4. Exceptions.**

A. The following shall constitute valid exceptions to the operation of the curfew. That the minor was:

1. Accompanied by the minor’s parent or guardian.
2. On an errand at the direction of the minor’s parent or guardian, without any detour or stop;
3. In a motor vehicle involved in interstate travel;
4. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
5. Involved in an emergency;
6. On the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor’s presence;
7. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, and official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor.
8. Exercising first Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly; or
9. Married or has been married.

B. It is a defense to prosecution under subdivision 3 of this Subsection that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**Subd. 5. Enforcement.** Before taking any enforcement action under this Subsection, the police officer shall ask the apparent offender’s age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Subsection unless the officer reasonably
believes that an offense has occurred and that, based on any response and other circumstances, no defense in subdivision 4 of this Subsection is present.

Subd. 6. Penalty. Any minor under the age of eighteen (18) years who violates any of the provisions of this Subsection shall be deemed a juvenile offender and shall be subject to detention. The said minor shall be taken and delivered into the hands of the parent, guardian or other person having the care and custody of the minor, or said minor may be placed under detention at the local police station, and his or her parents or guardian notified by call from the Police. Upon second or subsequent offense, the minor shall be dealt with in accordance with juvenile law and procedure.

520.03. Consumption of Beer, Wine or Liquor on Streets or Private Parking Lots.

Subd. 1. Consumption in Streets. It is unlawful for any person to consume, or possess in an unsealed container, beer, wine or liquor, as those terms are defined in Chapter 4 of the City Code, on any street. Provided, that this Subsection shall not apply to the possession of an unsealed container in a motor vehicle on streets when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Subsection, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

Subd. 2. Consumption in Private Parking Lots. It is unlawful for any person to consume or possess in an unsealed container, beer, wine or liquor, as those terms are defined in Chapter 4 of the City Code, on any privately-owned parking lot which is clearly sign-posted prohibiting such possession and consumption. Provided, that this Subsection shall not apply to the possession of an unsealed container in a motor vehicle on privately-owned parking lots when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Subsection, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

520.04. Obscenity Prohibited.

Subd. 1. Definitions. As used in this Subsection, the following terms have the meanings given them.

A. The term “obscene” means that the work, taken as a whole, appeals to the prurient interest in sex of the average person, which portrays patently offensive sexual conduct and which, taken as a whole, does not have serious literary, artistic, political or scientific value. In order to determine that a work is obscene, the trier of fact must find:

1. That the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest in sex of the average person;

2. That the work depicts patently offensive sexual conduct specifically defined by clause B; and

3. That the work, taken as a whole lacks serious literary, artistic, political, or scientific value.

B. The phrase “patently offensive sexual conduct” includes any of the following
depicted sexual conduct:

1. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital or oral-genital intercourse, whether between human beings or between a human being and an animal.

2. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound or otherwise physically restricted on the part of one so clothed.

3. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.

4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breast of the female, whether alone or between members of the same or opposite sex or between humans and animal members of the same or opposite sex or between humans and animals in an act of apparent sexual simulation or gratification.

C. The term “community” means the political subdivision from which persons properly qualified to serve as jurors in a civil proceeding are chosen.

Subd. 2. The Crime of Obscenity is the Intentional:

A. Exposure of genitals, pubic hair, anus, vulva, or female breast nipples in any public place or place open to the public view with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive.

B. Sale, consignment, distribution, dissemination, advertisement, exhibition or display of obscene material, or the preparation, manufacture, publication or printing of obscene material for sale, allocation, consignment, distribution, advertisement, exhibition or display.

C. Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, or display of, patently offensive sexual conduct.

Subd. 3. Exceptions.

A. The provisions of this Subsection do not apply to recognized and established schools, churches, medical clinics, hospitals, physicians, governmental agencies, quasi-governmental sponsored organizations and persons acting in their capacity as employees or agents of such organizations.

B. For the purpose of this paragraph, the following words and terms shall have the respective meanings defined as follows:

1. “Recognized and Established Schools” means schools having a full time faculty and pupils, gathered together for instruction on a diversified curriculum.

2. “Churches” means any church, affiliated with a national or regional denomination.

3. “Physicians” means any licensed physician or psychiatrist.

4. “Medical Clinics” and “Hospitals” mean any clinic or hospital or licensed physicians or psychiatrists used for the reception and care of the sick, wounded or infirm.

Subd. 4. Corporations. When a corporation is charged with violating this Section, the corporation, the president, the vice president, the secretary and the treasurer may all be named as defendants. Upon conviction for a violation of this Subsection, all corporate officers who are named as defendants shall be subject to the penalty for a violation of this Subsection which is a misdemeanor.
520.05. Abandoned, Junk, Unauthorized and Illegally Parked Motor Vehicles.

**Subd. 1. Unlawful Acts.**

A. It is unlawful to park or store any unlicensed, unregistered or inoperable vehicle, or parts or components thereof, on any property, public or private, unless housed in a building. For the purposes of this Section, inoperable vehicle shall be defined as in Minnesota Statutes, Chapter 169.

B. It is unlawful to park or store any abandoned, unlicensed, or unauthorized vehicle, or parts or components thereof, on any property, public or private. For the purposes of this Section, abandoned, unlicensed, or unauthorized vehicles shall be as defined in Minnesota Statutes, Chapter 168B.

C. It is unlawful to park any motor vehicle in violation of any parking regulation of the City, as specified in Section 630 of this Code.

**Subd. 2. Nuisance Vehicles.** Unlicensed, unregistered or inoperable vehicles, or parts thereof, parked or stored on any property, public or private that are not housed in a building are hereby declared to be a public nuisance. The City may proceed to abate such nuisances according to the procedures set forth in Section 500 of this Chapter. Any vehicle which has been taken into custody by the City to abate such a nuisance shall be considered an unauthorized vehicle and may be disposed of according to the procedures set forth in subdivisions 5, 6 and 7 of this Subsection.

**Subd. 3. City Authorized to Impound.**

A. A police officer shall take into custody and impound any abandoned motor vehicle, junk motor vehicle or unauthorized motor vehicle as allowed by Minnesota Statutes, Section 168B.04.

B. When a police officer finds a vehicle standing upon a street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove to a position in compliance with the parking regulations of Section 630 of this Code. When a police officer finds a vehicle unattended upon any street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal thereof.

**Subd. 4. Impound Facility.** The City Council shall designate a storage facility as the impound facility. Such place shall be reasonably safe from theft and vandalization. The City may contract with any individual or corporation for the use of such a facility as the designated facility. All costs of removal to and storage at the designated facility shall be the responsibility of the registered owner of the motor vehicle impounded.

**Subd. 5. Notice of Taking.**

A. When a motor vehicle is impounded under subdivision 2 of this Subsection as an abandoned, junk, or unauthorized vehicle, the City shall give notice of the taking within five (5) days. The notice shall:

1. Set forth the date and place of the taking, the year, make, model and serial number of the vehicle, if easily obtained, and the place where the vehicle is being held;
2. Inform the owner and any lien holders of an abandoned, junk or unauthorized vehicle of their right to reclaim the vehicle and contents. The notice shall also state that failure to exercise that right shall be deemed as a waiver by them of all rights, title and interest
in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to subdivision 6 of this Subsection.

B. The notice for abandoned, junk or unauthorized vehicles shall be sent by mail to the registered owner, if any, and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

C. The notice of a vehicle impounded for a parking violation shall also be sent by mail to the registered owner of the vehicle.

**Subd. 6. Right to Reclaim.**

A. The owner or any lien holder of an abandoned or junk vehicle shall have the right to reclaim the vehicle upon payment of towing and storage charges resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice.

B. The owner of any lien holder of an unauthorized vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within forty-five (45) days after the date of the notice.

C. The owner of a vehicle impounded for a parking violation shall have the right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within forty-five (45) days of the date of the notice. After forty-five (45) days, the City may declare the vehicle abandoned and proceed as if it was dealing with an abandoned vehicle except that no charges for storing an abandoned vehicle may be brought against the owner.

D. Nothing in this Subsection shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of a lien holder to foreclose. For the purposes of this Subsection, “garage keeper” is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

**Subd. 7. Disposal of Unclaimed Motor Vehicles by Public Sale.**

A. An abandoned, junk or unauthorized motor vehicle and contents taken into custody and not reclaimed under subdivision 5 of this Subsection shall be sold to the highest bidder at public auction or sale, following the expiration of the reclamation period for the vehicle in subdivision 5 of this Subsection. The purchaser shall be given a receipt in a form prescribed by the Register of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

B. From the proceeds of the sale of an abandoned, junk or unauthorized motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative notice and publication costs incurred pursuant to this Subsection. Any remainder from the sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the General Fund of the City.

C. Disposal of Vehicles not Sold. When no bid has been received for an abandoned, junk or unauthorized vehicle, the City may dispose of it in compliance with Minnesota law.

D. Contracts on Disposal.

1. The City may contract with a qualified person for the collection, storage,
incineration, volume reduction, transportation or other services necessary to prepare abandoned, junk, or unauthorized vehicles and other scrap metal for recycling or other methods of disposal.

2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency’s plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where the City enters into a contract with a person duly authorized by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency’s plan for solid waste disposal for the purpose of obtaining reimbursement.

3. If the City utilizes its own equipment and personnel for disposal of the abandoned, junk or unauthorized vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided. However, the city may dispose of no more than five (5) vehicles using its own resources without advertising for or receiving bids for such disposal in any 120 day period.

E. Persons who may not Purchase - Exception.

1. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of a Vehicle under this Subsection. Other City employees may be purchasers, if they are not directly involved in the sale, if they are the highest bidder, and if at least one week’s published or posted notice of sale has been given.

2. It is unlawful for any person to be a purchaser of a vehicle under this Subsection if such purchase is prohibited by the terms of this subdivision.

520.06. Obstructing Legal Process or Arrest. It is unlawful for anyone to intentionally obstruct, hinder or prevent the lawful execution of any legal process, civil or criminal or apprehension of another on a charge or conviction of a criminal offense.

520.07. Storage of Refuse and/or Garbage Within City Limits.

Subd. 1. Compliance with State and City requirements. All solid wastes shall be stored, collected, transferred, utilized, processed and disposed of, or reclaimed in a manner consistent with the requirements of this Subsection and the requirements of the Minnesota Pollution Control Agency.

Subd. 2. Storage.

(a) The owner and occupant of any premises, business establishment, or industry shall be responsible for the satisfactory storage of all solid waste accumulated at that premises, business establishment or industry.

(b) Garbage and similar putrescible waste shall be stored in one (1) of the following:

(1) Durable, rust-resistant, nonabsorbent, water-tight, rodent-proof, and easily cleanable containers, with close-fitting, fly-tight covers having adequate handles or bales to facilitate handling.

(2) Other types of containers acceptable to the city and conforming to the
intent of this article.

(c) Refuse shall be stored in durable containers or as otherwise provided in this article. Where garbage and similar putrescible wastes are stored in combination with non-putrescible refuse, containers for the storage of the mixture shall meet the requirements for garbage containers.

(d) Toxic or hazardous wastes shall be stored in the proper containers which are adequately labeled in a safe location and in compliance with the regulations of federal, state, and the city governments and their regulatory agencies.

(e) All containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a nuisance or menace to public health. Containers which are broken or otherwise fail to meet requirements in this regulation shall be replaced with acceptable containers.

(f) Solid waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a pollution and nuisance-free manner and in compliance with the regulations of federal, state and the city government and their regulatory agencies.

(g) The owner and/or occupant of any premises, business establishment, or industry located in the City of Blue Earth shall not allow the accumulation or storage of solid waste in a refuse or garbage container or dumpster of a size greater than ninety-six (96) gallons on said premises for a period longer than one (1) week, nor permit the disposal of any solid waste except in accordance with this section and any ordinance regulating solid waste disposal adopted by the county board of commissioners. All such refuse and garbage containers or dumpsters shall be emptied of its contents by the property owner or tenant at least 1 time per calendar week.

(h) No dumpsters or garbage or refuse containers shall be allowed in the front yard except on the night before and through the day of garbage or refuse pick up.

Subd. 3. Dumpsters used for construction, remodeling or moving purposes. An owner and/or occupant of any premises, dwelling, business establishment or industry located in the City of Blue Earth may place a refuse or garbage container or dumpster upon their property for the purposes of disposing of non-biological dry items only due to a construction project, a remodeling project or because of a move from or to the premises after obtaining a permit for said containers from the City. Said permit shall be valid for a period of thirty (30) days only and may be renewed upon proof to the City that said container or dumpster has been emptied prior to the renewal date.

Subd. 4. Penalty. Violations of the provisions of this Subsection shall be a petty misdemeanor offense.
Section 530 – Building Maintenance Standards

530.01. Purpose.

Subd. 1. Findings and Intent. The City Council believes it is in the best interest of the City of Blue Earth to protect the public health, safety and general welfare of its citizens by adoption of these property maintenance standards. The intent of these regulations is as follows:

1. To preserve the value of property within the City of Blue Earth;
2. To protect the character and stability of all buildings and property within the City of Blue Earth;
3. To correct and prevent conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying buildings within the City of Blue Earth;
4. To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of occupants of buildings.
5. To provide minimum standards for light and ventilation necessary to health and safety.
6. To prevent overcrowding of dwellings by providing space standards per occupant for each dwelling.
7. To provide minimum standards for the maintenance of existing buildings, and to thus prevent slums or blight.

530.02. Application.

Subd. 1. Scope. All owners and occupants of property shall comply with the provisions set forth in this Section and elsewhere in this Code. This Section applies to all property located within any commercial, industrial, or residential zoning district, as those terms are defined in the zoning regulations of this Code. Every building, as well as its premises, and all occupied premises within the City of Blue Earth, shall conform to the requirements of this ordinance, irrespective of when such building may have been constructed, altered, or repaired.

This section does not apply to the following:

Undeveloped land, which may be allowed to remain in a natural condition, but shall comply with all other provisions of this Code.

Vacant buildings, structures, and accessory structures scheduled for demolition or removal,
within 120 days of inspection, or within 60 days following an expired foreclosure redemption period, provided they are secured in such a way that they present no public danger, as determined in Chapter 9 of the City Code.

Manufactured housing and property shall comply with the regulations governing manufactured housing in this Code, state statutes, and state regulations and all other provisions of this Code.

**Subd. 2. Rental Properties.** It is not the intention of the City Council to intrude upon the fair and accepted contractual relationship between tenant and landlord. The City Council does not intend to intervene as an advocate of either party, or to act as an arbiter, or to be receptive to complaints for tenant or landlord, which are not specifically and clearly relevant to the provisions of this ordinance. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise legal sanctions as are available to them without the intervention of city government. Neither in enacting this ordinance is it the intention of the City Council to interfere or permit interference with legal rights to personal privacy.

**Subd. 3. Definitions.**
The following definitions shall apply in the interpretation and enforcement of this ordinance:

**Accessory Building:** A structure subordinate to the main or principal building which is not authorized nor used for living or sleeping by human occupants and which is located on the premises. Accessory buildings or structures include, but are not limited to, decks, porches, fences, retaining walls, and sheds.

**Approved:** Acceptable to this jurisdiction.

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy. Buildings include, but are not limited to, dwellings, offices, and stores.

**Compliance Official:** The Building Official, Code Enforcement Officer, Police Chief, Zoning Administrator, or City Administrator.

**Dwelling:** A building or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels and motels.

**Dwelling Unit:** A single residential accommodation which is arranged, designed, used, or if vacant, intended for the use exclusively as a domicile for one family. Where a private garage is structurally attached, it shall be considered as part of the building.

**Flush Water Closet:** An approved toilet system with a bowl and trap made in one piece connected to the city water and sewer system.

**Garbage:** Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.
**Habitable Building:** Any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

**Habitable Room:** A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electrical outlets and required exit facilities), pantries, utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas in parts of the structure below ground level or in attics.

**Heated Water:** Water heated to a temperature of not less than 120 degrees Fahrenheit, or such lesser temperature required by government authority, measured at the faucet outlet.

**Kitchen:** A space that contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment, and adequate space for storage of cooking utensils.

**Manufactured Housing:** Shall be given the meaning of either “mobile home” or “modular home”, as defined in Chapter 10 of the City Code, given the relevant subjective characteristics of the unit at issue.

**Multiple-Family Dwelling:** A dwelling or portion thereof containing three or more dwelling units.

**Non-Residential Building:** All other buildings or structures other than dwellings or dwelling units.

**Occupant:** Any person (including an owner or operator) occupying any structure, building or part thereof, dwelling, dwelling unit, rooming unit or premise.

**Permissible Occupant Load:** The maximum number of persons permitted to occupy a building or space within a building.

**Person:** An individual, firm, partnership, association, corporation, joint venture or organization of any kind.

**Property:** Any developed or undeveloped land, parcel or platted lot, including any buildings, structures, and accessory structures thereon.

**Refuse:** All putrescible and non-putrescible waste solids including garbage and rubbish.

**Repair:** To restore to a sound and acceptable state of operation, serviceability or appearance.

**Rodent Harborage:** Any places where rodents can live, nest, or seek shelter.
**Rooming Unit:** Any room or group of rooms forming a single habitable unit used for living or sleeping but not for cooking and eating purposes.

**Safety:** The condition of being reasonably free from danger and hazards that may cause accidents and diseases.

**Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Substandard Building:** Any dwelling that does not conform to the minimum standards established by City Ordinances.

530.03. **Responsibility of Owners.**

No owner or person shall occupy or let another person occupy any building, unless it and the premises are clean, sanitary, fit for human occupancy and comply with all applicable legal requirements of the State of Minnesota and the City of Blue Earth.

530.04. **Maintenance Requirements.**

The owner and occupant of a property shall keep and maintain the property in compliance with the following requirements:

1. **Exterior Property Areas.** Exterior property areas, which means all areas of a property which are exterior and not related to any portion of a building, structure, or accessory structure located on the property, shall be maintained as follows:
   a. The exterior property areas shall be kept and maintained in a clean, safe, and sanitary condition.
   b. Private sidewalks, driveways, and similar areas shall be kept in good repair and maintained free from hazardous conditions, including but not limited to, those conditions considered to be nuisance in Chapter 5 of the City Code.

2. **Yards.** The owner shall be responsible for providing and maintaining premises yards consistent with Chapter 510 of the City Code. The stockpiling of dirt or other construction or landscaping materials for any period exceeding 90 days shall be unlawful.

3. **Driving and Parking Areas.** The owner of a building shall be responsible for providing and maintaining in good condition, delineated parking areas and driveways.

4. **Exterior of Buildings, Structures, and Accessory Structures.** The exterior of any building, structure or accessory structure shall be maintained in good repair so as not to pose a threat to the public health, safety, or general welfare.

5. **Exterior Surfaces.** Exterior surfaces shall be protected from the elements and decay by
maintained paint, stain, or other protective covering or treatment. Peeling, flaking and chipped paint shall be removed and the surface repainted or otherwise covered by other protective covering. Joints in siding materials and between siding and other features shall be maintained weather-resistant. Metal surfaces subject to rust or corrosion shall be stabilized and treated to inhibit future rust or corrosion. For purposes of this Section, if fifty percent (50%) or more of a wall or other surface area, such as fascia or soffits, has the protective coating peeling, flaking, chipping, or deteriorated, then the wall or surface area shall be restored to a protected condition.

6. **Structural Members.** Structural members shall be maintained free from deterioration and shall be of a condition that is capable of safely supporting the imposed loads.

7. **Foundations, Exterior Walls, Roofs, and Drainage.** Exterior walls shall be free from holes, breaks, and loose, missing or rotting materials. The roof and flashing shall be maintained weather-resistant so as not to allow moisture to enter the building. Roof drainage systems shall be maintained in good working order to perform the intended function. Roof water shall not be discharged in a manner that creates a public nuisance as defined in Chapter 5 of the City Code.

8. **Windows, Skylights, Doors, Screens.** Every window, skylight, exterior door, and other exterior openings shall be kept in sound condition and repair and substantially weather tight. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin, and rodents from entering the building. Glazing materials shall be maintained free of cracks, holes, or similar damage.

9. **Stairways, Decks, Porches and Balconies.** Stairways, decks, porches and balconies, and attachments thereto, shall be maintained structurally sound, in good repair, capable of supporting the imposed loads, able to perform the intended function, and maintained weather-resistant.

10. **Chimneys, Flues, and Vents.** Chimneys, flues, vents, and other similar features shall be maintained in good and safe repair and structurally sound. Exposed surfaces of metal or wood shall be maintained and protected from rust or decay according to the requirements of this chapter.

11. **Safety Features.** Safety features that are placed on property shall be maintained in good condition and repair and structurally sound to perform the intended function.

12. **Storage and Disposal of Rubbish.** All occupants of a building shall store and dispose of all their rubbish in a clean, sanitary, and safe manner as described in Chapters 5 and 10 of the City Code.

13. **Storage and Disposal of Garbage.** All occupants of a building shall store and dispose of all
their garbage in a clean, sanitary, and safe manner as described in Chapter 5 of the City Code.

14. **Responsibility for Pest Extermination.** Every occupant of a dwelling containing a single dwelling unit or an occupant of a nonresidential building containing a single unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a nonresidential building containing more than one unit shall be responsible for such extermination whenever their unit is the only one infested. Notwithstanding, however, whenever infestation is caused by the failure of the owner to maintain a building in a reasonable rodent-proof or reasonable vermin-proof condition, extermination shall be the responsibility of the owner. Whenever extermination is the responsibility of the landlord, the extermination must be performed by a licensed pest control contractor.

15. **Rodent Harborage Prohibited in Occupied Areas.** No occupant of a building shall accumulate boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling unit or building creating a nuisance as defined in Chapter 5 of the City Code. Stored materials shall be stacked neatly.

16. **Public or Shared Areas.** Every owner of a building shall maintain in a clean, sanitary and safe condition the shared or public areas of the building or premises thereof.

17. **Occupied Areas.** All occupants of a building shall maintain in a clean, sanitary and safe condition that part or those parts of the building and premises thereof that they control.

18. **Sanitary Maintenance of Fixtures and Facilities.** Every occupant of a building shall keep all supplied fixtures and facilities therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

19. **Removal of Snow and Ice.** Every occupant and/or owner shall be responsible for the removal of snow or ice from the parking lots, sidewalks, and driveways on the premises as specified in Chapter 5 of the City Code.

20. **Other Code Provisions.** The maintenance requirements set forth herein are not exclusive and are in addition to all other provisions of this Code or state law that regulate the condition or use of property, including but not limited to: storage of garbage or refuse, junk vehicles or appliances; weed and pest control; building, fire and plumbing code requirements; individual sewage treatment systems; and prescribed public nuisances.

**530.05. Commencement of Proceedings.**

Whenever the Compliance Official has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, he shall commence criminal prosecution for the violation of the Ordinance and commence proceedings to cause the repair, rehabilitation, vacation, or demolition of the building.
530.06. Notice and Order.

The Compliance Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and/or a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the Compliance Official has found the building to be substandard with a brief and concise description of the conditions found to render the building be in violation of this ordinance.

3. A statement of the action required to be taken as determined by the Compliance Official in order to ensure compliance with this Ordinance.
   a. If the Compliance Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days) and completed within such time as the Compliance Official shall determine as reasonable under all circumstances.
   b. If the Compliance Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Compliance Official.

4. Statements advising that if any required repair or demolition work is not commenced within the time specified, the Compliance Official:
   a. May initiate criminal proceedings against the property’s occupant or owner, as specified within this Ordinance and provided for in Chapter 1 of the City Code;
   b. May recommend to the Council that the Council proceed with obtaining a Summary Enforcement Order requiring compliance with the Ordinance in District Court, following the procedural requirements set forth for such a proceeding in Chapter 5 of the City Code and provided for in Minnesota Statutes, section 463.17.
   c. Will inform the property’s owner or occupant that a violation of the Enforcement Order may result in the individual being held in contempt of court and the City performing the necessary repairs or demolition work and assessing all related expenses back to the property.

530.07. Enforcement.

Violation of this Section shall constitute a petty misdemeanor as defined in Chapter 1 of the City Code and/or remedied by the guidelines set forth by this Section.
Section 540 – Vacant Building Registration

540.01. Definitions. For the purpose of this section certain words and phrases are defined as follows:

Subd. 1. Enforcement Officer. The City Building Official or Zoning Administrator.

Subd. 2. Owner. Those shown to be owner(s) on record at the Faribault County Recorder’s Office, those identified as owner(s) on a vacant building registration form, holder of an unrecorded contract for deed, a mortgagee/mortgagor or vendee/vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lesser state therein, mortgagee for the benefit of the owner(s) of the beneficial interests in possession, or its nominee. Any such person shall have a joint obligation for compliance with the provisions of this section.

Subd. 3. Secure. Includes, but is not limited to, installing locks, repairing and/or boarding windows and doors, posting “no trespassing” signs, installing exterior lighting or motion-detecting lights, fencing the property, and installing a monitored alarm or security system consistent with Minn. Stat. §463.251.

Subd. 4. Unoccupied Building. A building which is not being used for a legal occupancy.

Subd. 5. Vacant Building. A building or a portion of a building that meets one or more of the following conditions:

a. Unoccupied and foreclosed upon as identified by Faribault County.

b. Unoccupied and windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired.

c. Unoccupied and doors to the premises are smashed through, broken off, unhinged, or continuously unlocked.

d. Unoccupied and gas, electric, and water service to the premises has been terminated.

e. Unoccupied and rubbish, trash, or debris has accumulated on the premises.

f. Unoccupied and the police or sheriff’s office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises.

g. Unoccupied and the premises is deteriorating or in imminent danger of falling below minimum community standards for public safety and sanitation

h. Unoccupied and the property address has been cited with at least one nuisance violation.

i. Unoccupied and the property address has been cited with at least one minimum maintenance standard violation.

540.02. Registration and Fees.

Subd. 1. Registration Required. The owner shall register with the enforcement officer within thirty (30) days after any building in the city becomes a vacant building, as defined in Subsection 540.01, Subd. 5. The registration shall be submitted on forms provided by the enforcement officer and shall include the following information supplied by the owner:

a. description of the premises
b. names and address of owner(s)
c. name and address of all known lien holders and all other parties with an ownership interest in the building
d. period of time the building is expected to remain vacant and a plan and timetable for returning the building to appropriate occupancy or use and/or for demolition of the building.

Subd. 2. Registration Fee. The owner of a vacant building shall pay an annual registration fee of five hundred ($500.00) dollars each year the building remains a vacant building. The registration fee is intended to at least partially cover the administrative costs for registering and processing the vacant building owner registration form and for the costs of the City in monitoring the vacant building site. If the vacant building is listed for sale with a licensed realtor, for a sales price which is no greater than 10% above the assessed value of the property for real estate tax purposes by the Faribault County Assessor’s Office, then the owner shall not need to pay said registration fee.

Subd. 3. Penalty – Failure to Pay Fee. The first annual fee shall be paid within thirty (30) days of being due and the owner shall be subject to prosecution as prescribed in this section if not paid by the due date. The fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit. All delinquent fees shall be paid by the owner, prior to any transfer of ownership of a vacant building. If the fees are not paid prior to any transfer, the new owner shall pay the annual fee within thirty (30) days of being due and the new owner shall be subject to prosecution as prescribed in this section if not paid by the due date.

540.03. Records on Property. The enforcement officer shall include in the file any property specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

540.04. Exemptions. In order to encourage the prompt renovation of property, the owner of a fire damaged building may be exempt from paying vacant building fees provided that within thirty (30) days from the date of the fire, the owner submits a written request for an exemption to the enforcement officer, which includes the following:
   a. description of the premises
   b. names and address of owner(s)
   c. statement of intent to repair and reoccupy the building in an expedient manner
An exemption granted under this section shall be valid for no more than ninety (90) days. In the event that the owner of the property, at the time of the fire, who received an exemption under this section should at any time after the fire transfer to another person any ownership interest in the subject property, the exemption under this section is immediately void and any new owner(s) shall be responsible for paying any required vacant building fees.

540.05. Inspections. The enforcement officer shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this section. Upon the request of the enforcement officer, an owner shall provide access to all interior portions of a vacant building in order to permit a complete inspection.

540.06. Inventory. The enforcement officer shall maintain a current list of all known vacant buildings, as well as list of all previously declared vacant buildings which are no longer subject to
the provisions of this section. The vacant building list shall be available to the public, to the extent provided by law.

540.07. Collection of Unpaid Fees. The fees associated with the vacant building program shall be a debt owed to the City and unpaid costs shall be collected by special assessment under the authority in Minnesota Statutes, Section 429.101.

540.08. Violations. A violation of any provision of this section by the owner of a vacant building shall be a petty misdemeanor.

540.09. Severability. If any provision of this section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.
CHAPTER 6

TRAFFIC, VEHICLE AND PARKING REGULATIONS

Section 600 - General Provisions

600.01. Application.

Subd. 1. Motorized Vehicles. The provisions of this Chapter applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles including, but not limited to, those owned or operated by the United States, this State, or any county, city, town, district or any other political subdivision of the State, subject to such specific exemptions as may be set forth in this Chapter.

Subd. 2. Other Transportation. Every person riding a bicycle or an animal, or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle, except those provisions which by their nature can have no application. Provisions specifically referring to bicycles shall be in addition to other provisions of this Chapter applying to vehicles.

600.02. Scope and Orders of Peace Officer.

Subd. 1. Scope. The provisions of this Chapter relate exclusively to the streets, alleys and private roads in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys and private roads.

Subd. 2. Orders of a Peace Officer. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

600.03. Traffic and Parking Control.

Subd. 1. Council Action. No device, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this Chapter; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to Council action thereon.

Subd. 2. Temporarily Restricting or Directing Traffic and Parking; Curb Painting.

A. When clearly marked, barricaded or signposted, traffic and parking may be temporarily restricted for any public or private use. All such restrictions shall be in accordance with the uniform policy promulgated by the Clerk-Administrator who may act through the Chief of Police, but who shall be ultimately responsible to the Council for the proper enforcement thereof.

B. Restricted or prohibited use of parking and traffic lanes may be designated by painting the same upon streets and curbs. Such work shall be done under the direction of the Clerk-Administrator and in compliance with the provisions of this Chapter.
C. It is unlawful to use traffic or parking lanes contrary to sign-posting or marking authorized and described in this Chapter.

D. Experimental restrictions and directions may be placed on traffic and parking by the Clerk-Administrator, and it shall be his or her duty to do so when an extra hazardous condition is observed or arises. It is unlawful to violate any restriction or direction when the same has been duly marked, barricaded or sign-posted.

600.04. Minnesota Statutes Chapters 168, 169 and 171 Adopted By Reference. Except as otherwise provided in this Chapter, the regulatory and procedural provisions of Minnesota Statutes, Chapter 168, Chapter 169 (commonly referred to as the Highway Traffic Regulation Act), and Chapter 171, as amended, are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

600.05. Presumption. As to any vehicle parking in violation of this Chapter when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner. This presumption shall be rebuttable by a preponderance of the evidence.
Section 610 - Traffic Regulations

610.01. Truck Route. It is unlawful for any person to drive a tractor, agricultural implement, truck (other than a pick-up truck of one ton capacity or less), truck-trailer, tractor-trailer or truck-tractor, automobile trailer, or automobile to which a trailer is attached, in through traffic, upon any street except those which have been designated and sign-posted as truck routes. For the purpose of this Chapter, “through traffic” means originating out of the City and with a destination out of the City, as distinguished from “local traffic” which means traffic either originating or having a destination within the City.

610.02. Load Limits.

Subd. 1. Creation. The Clerk-Administrator, upon the recommendation of the City Engineer, may from time to time impose upon vehicular traffic on any part or all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly signposted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

Subd. 2. School Bus Exemption. Weight restrictions imposed pursuant subdivision 1 of this Subsection do not apply to a school bus transporting students when the gross weight on a single axle of the school bus does not exceed fourteen thousand (14,000) pounds; provided that, road authorities may restrict any street under their jurisdiction to a lesser school bus axle weight by written order to the school board twenty-four (24) hours in advance of required compliance with such reduced axle weight.

Subd. 3. City Vehicle Exemption. All City vehicles are exempted from the weight restrictions in this Subsection.

Subd. 4. Exemption By Permit. Overweight vehicle users including but not limited to moving trucks, bulk fuel trucks, cement trucks, house-moving trucks, construction trucks, wrecker trucks, delivery trucks, and garbage trucks may apply to the city police department for a permit waiving the weight restrictions for isolated uses that cause undue hardship. When issuing the permit, the police department shall designate the route the permittee shall use. The fee for such a permit shall be the amount listed on the City’s fee schedule as periodically set by resolution of the Council.

610.03. U-Turns. It is unlawful for any person to operate a vehicle by turning so as to proceed in the opposite direction upon any street except at a street intersection, and then only if the street intersection is not signposted prohibiting a U-turn or otherwise controlled by a traffic signal, provided, that any person making a permitted U-turn shall yield the right-of-way to all other vehicles. It is a petty misdemeanor to make a U-turn contrary to the provisions of this Subsection.

610.04. Driving Through Private Property to Avoid Traffic Signal. It is unlawful for any person to avoid obedience to any traffic control device by driving upon or through any private property. No driver of a motor vehicle shall be guilty of violating this Subsection if he or she is then a business invitee or transacting business on said private property.

610.05. Exhibition Driving.
Subd. 1. Prima Facie Evidence. It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

Subd. 2. Unlawful Act. It is unlawful for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this Subsection shall not apply to driving on a licensed racetrack with the permission and under the auspices and direction of the licensee.

610.06. Regulation of Traffic on School Property. All lawfully posted traffic regulations in the parking lots of the Blue Earth Area School System including the High School, the Junior High School, the Elementary School and Wilson Field, shall be enforced by the City of Blue Earth Police Department, and any such violation shall be punished as a misdemeanor.

610.07. Regulation of Traffic on Fairgrounds Property. All lawfully posted traffic regulations in the roads and parking areas of the fairgrounds shall be enforced by the City of Blue Earth Police Department, and any such violation shall be punished as a misdemeanor.
Section 620 - Vehicle Regulations

620.01. Bicycles.

Subd. 1. Traffic Laws Apply. Every person riding a bicycle upon a roadway or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Chapter, except as to special regulations in this Chapter and except as to those provisions of this Chapter which by their nature can have no application.

Subd. 2. Manner and Number Riding.

A. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except in a baby seat attached to the Bicycle, provided that such seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel or in a seat attached to the bicycle operator.

Subd. 3. Hitching Rides. It is unlawful for any person riding upon any bicycle, coaster, roller skates, sled or toy vehicle to attach the same or himself or herself to any vehicle upon a roadway.

Subd. 4. Where to Ride.

A. Every person operating a bicycle upon a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking and passing another vehicle proceeding in the same direction.

2. When preparing for a left turn at an intersection or into a private road or driveway.

3. When reasonably necessary to avoid conditions, including fixed or moving objects, vehicles, pedestrians, animals, surface hazards or narrow width lanes, that make it unsafe to continue along the right-hand curb or edge.

B. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast and shall not impede the normal and reasonable movement of traffic.

C. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

Subd. 5. Right of Way - Sidewalks. Whenever a person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Subd. 6. Use in Business District. It is unlawful for any person to ride a Bicycle on a sidewalk in a Business District, Business District being defined by the City Zoning Map, between the hours of 8:00 A.M. and 6:00 P.M. Monday through Saturday and 8:00 A.M. and 9:00 P.M. on Thursdays.

Subd. 7. Carrying Articles. It is unlawful for any person operating a bicycle to carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.
Subd. 8. Lighting and Brake Equipment.
A. Every bicycle when in use at nighttime shall be equipped with, or its operator shall carry, a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of twenty (20) square inches on each side of the bicycle or its operator, of white reflective material. All reflective materials used in compliance with this subdivision shall meet the requirements as prescribed by the commissioner of Public Safety.
B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
C. No person shall operate upon a highway any bicycle equipped with handlebars so raised that the operator must elevate his or her hands above the level of his or her shoulders in order to grasp the normal steering grip area.
D. No person shall operate upon a highway any bicycle equipped which is of such a size as to prevent the operator from stopping the bicycle, supporting it with at least one foot on the highway surface and restarting in a safe manner.

Subd. 9. Sale With Reflectors. It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed in subdivision 7 of this Subsection and by the regulations for new bicycles prescribed by the United States consumer product safety commission.

Subd. 10. Turning and Lane Changes. An arm signal to turn right or left shall be given continuously during the last 100 feet traveled by the bicycle before turning, unless the arm is needed to control the bicycle, and shall be given while the bicycle is stopped, waiting to turn.

Subd. 11. Bicycle Parking. A bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

Subd. 12. Penalty. Any person who violates a provision, subpart or subdivision of this Subsection shall be cited and punished as a petty misdemeanor.

620.02 Skateboards.

Subd. 1. Traffic Laws Apply. Every person riding a skateboard upon a roadway, sidewalk or upon any path set aside for the use of skateboards shall be subject to all of the duties, rules and regulations applicable to the driver of a motor vehicle by this Chapter, except as to special regulations in this Subsection and except as to those provisions of this Chapter which by their nature can have no application.

Subd. 2. Manner and Number Riding. No skateboard shall be used to carry more persons at one time than the number for which it was designed and equipped.
**Subd. 3. Hitching Rides.** It is unlawful for any person riding upon any skateboard, coaster, roller skates, sled or toy vehicle to attach the same or his or her self to any vehicle upon a roadway.

**Subd. 4. Where to Ride.**
A. Every person operating a skateboard upon a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway.
B. Persons riding on skateboards upon a roadway shall not ride more than two (2) abreast and shall not impede the normal and reasonable movements of traffic.
C. Whenever a usable path for skateboards has been provided adjacent to a roadway, skateboard drivers shall use such path.

**Subd. 5. Right of Way - Sidewalks.** Whenever a person is riding a skateboard upon a sidewalk, such a person shall yield the right of way to any pedestrian and shall give a signal before overtaking and passing such pedestrian.

**Subd. 6. Use in Business District.** It is unlawful for any person to ride a Skateboard on a sidewalk in a Business District, Business District being defined by the City Zoning Map, between the hours of 8:00 A.M. and 6:00 P.M. Monday through Saturday and 8:00 A.M. and 9:00 P.M. on Thursdays.

**Subd. 7. Penalty.** Any person who violates a paragraph, provision or subdivision of this Subsection shall be cited and punished as a petty misdemeanor.

**620.03. In-Line Skating (Rollerblading).**

**Subd. 1. Traffic Laws Apply.** Every person in-line skating upon a roadway, sidewalk or upon any path set aside for the use by in-line skaters shall be subject to all of the duties, rules and regulations applicable to the driver of a motor vehicle by this Chapter, except as to special regulations in this Chapter which by their nature can have no application.

**Subd. 2. Hitching Rides.** It is unlawful for any person using in-line skates or roller skates, to attach the same or him or her self to any vehicle upon a roadway.

**Subd. 3. Where to Ride.**
A. Every person in-line skating, roller blading or roller skating upon a roadway shall ride as close a practicable to the right-hand curb or edge of the roadway.
B. Persons skating upon a roadway shall not ride more than two (2) abreast and shall not impede the normal and reasonable movements of traffic.
C. Whenever a usable path for skating has been provided adjacent to a roadway, skaters shall use such path.

**Subd. 4. Right of Way - Sidewalks.** Whenever a person is skating upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give a signal before overtaking and passing such pedestrian.

**Subd. 5. Skating in Business District.** It is unlawful for any person to skate within the Business district, Business district being defined on the City Zoning Map, between the hours of 8:00 A.M. and 6:00 P.M. Monday through Saturday and from 8:00 A.M. to 9:00 P.M. on Thursdays. It is unlawful for any person to skate Northbound or Southbound on Highway 169 within the City limits at any time; skaters are allowed to cross Highway 169 to go East or West.

**Subd. 6. Penalty.** Any person who violates a paragraph, provision, or subdivision of this Subsection shall be cited and punished as a petty misdemeanor.
620.05. Snowmobiles.

Subd. 1. Purpose. It is hereby determined that it is in the best interest of the City of Blue Earth and the residents thereof that the use and operation of Snowmobiles, as defined by the laws of the State of Minnesota, be regulated within the corporate limits of the City of Blue Earth.

Subd. 2. Adoption of Minnesota Statutes By Reference. The City of Blue Earth does hereby adopt by reference as part of this Section all the laws of the State of Minnesota pertaining to the ownership and operation of Snowmobiles.

Subd. 3. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. The term “snowmobile” means a self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

B. The term “owner” means a person, other than a lienholder, having the property in or title to snowmobile entitled to the use and possession thereof.

C. The term “operate” means to ride in or on and control the operation of a snowmobile.

D. The term “operator” means every person who operates or is in actual physical control of a snowmobile.

E. The term “deadman throttle” or “safety throttle” means a device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged for the driving mechanism.

F. The term “natural terrain” means areas other than roadways or driveways (private or public), parking lots and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

Subd. 4. Zones of Operation. The operation of Snowmobiles upon the following public streets and rights-of-way and upon the following areas within the corporate limits of the City of Blue Earth is prohibited:

1. County Highway 16.
4. Main Street from the intersection of Main and 14th Street north to Fairgrounds Road.
5. 7th Street from the intersection of 7th Street and Nicolle east to East Street.
6. 5th Street and 6th Street from the intersection of said streets with Moore Street east to Gorman Street.
7. Fairgrounds Road from the intersection of Main Street and Fairgrounds Road east to East Street.
8. Rice Street from the intersection of Rice Street and 14th Street north to 7th Street.
9. Industrial Drive from the intersection of Industrial Drive and Welk Drive east to Commerce Drive.
10. Welk Drive from the intersection of Welk Drive and County Highway 16 north to Industrial Drive.
11. Commerce Drive from the intersection of Commerce Drive and County.
12. Highway 16 north to Industrial Drive.
13. All land owned by the City of Blue Earth except routes designated by the City.

Snowmobiles may be operated upon all other public streets and rights-of-way within the City of Blue Earth not listed herein.

**Subd. 5. Time of Operation.** No Snowmobile shall be operated on any streets, public parks, or public lands within the City limits of Blue Earth between the hours of 1:30 A.M. and 6:00 A.M.

**Subd. 6. Safety Certificate Required.** No Minnesota resident whose date of birth is after December 31, 1976, shall operate a Snowmobile on either public or private property within the City limits of Blue Earth unless the individual has a valid snowmobile safety certificate and a drivers license or identification card that has a valid snowmobile qualification indicator. Said requirements are pursuant to Minnesota State Statute §84.862.

**Subd. 7. No Intra-City Travel.** Streets allowed by the City for travel are to be used only for entrance to the City and exit from the City and are not intended for intra-city travel.

**Subd. 8. Sidewalks.** No person shall operate a Snowmobile upon any sidewalk, Pedestrian Pathway or Boulevard except the sidewalk across the bridge over the Blue Earth River on Highway 169.

**Subd. 9. Speed.** No Snowmobile shall be operated on any public street at a rate of speed in excess of fifteen (15) miles per hour.

**Subd. 10. Stopping.** All Snowmobiles shall stop at every intersection before proceeding therein.

**Subd. 11. Riding Abreast.** All Snowmobiles shall be operated in single file and not beside any other vehicle.

**Subd. 12. Towing.** No Snowmobile shall tow another conveyance unless it is attached with a rigid hitch and equipped with reflectors.

**Subd. 13. Equipment Required.** It shall be unlawful for any person to operate a snowmobile any place within the City limits unless it is equipped with the following:

- A. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on a snowmobile.
- B. Brakes adequate to control movement of and to stop and hold the snowmobile under any condition or operation.
- C. A safety or so-called “deadman throttle” on operating condition.
- D. When operated between the hours of one-half (½) hour after sunset and one-half (½) hour before sunrise or at time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness and under normal atmospheric conditions. Such headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.
- E. Reflective material at least sixteen (16) inches square on each side, forward of the handlebars or steering device of a snowmobile and at the highest practical point on any towed object,
as to reflect light at a ninety (90) degree angle.

620.07. Special Vehicles. Use on Roadways.

Subd. 1. Authorization. Special Vehicles authorized for use upon City roadways by permit only pursuant to Minnesota Statutes §169.045 are hereby authorized for use within the Corporate City Limits of the City of Blue Earth, subject to the provisions set forth in this Subsection.

Subd. 2. Permit. All special vehicles operating upon City roadways must be permitted by the City and pay the annual permit fee as set forth in the resolution establishing fees passed by the City Council from time to time.

Subd. 3. Motorized Golf Carts. Properly permitted motorized golf carts may operate on all City owned roadways if said golf carts comply with the provisions of Minnesota Statutes §169.045.

Subd. 4. All-terrain vehicles and mini-trucks may operate only on authorized City streets and roadways in a fashion that complies with Minnesota Statutes §169.045. Use of all-terrain vehicles and mini-trucks is prohibited on the following roadways and areas within the City Limits:

1. County Highway 16.
4. Main Street from the intersection of Main and 14th Street north to Fairgrounds Road.
5. 7th Street from the intersection of 7th Street and Nicollet east to East Street.
6. 5th Street and 6th Street from the intersection of said streets with Moore Street east to Gorman Street.
7. Fairgrounds Road from the intersection of Main Street and Fairgrounds Road east to East Street.
8. County Highway 103 and Faribault Drive in the North Industrial Park.
9. Industrial Drive from the intersection of Industrial Drive and Welk Drive east to Commerce Drive.
10. Welk Drive from the intersection of Welk Drive and County Highway 16 north to Industrial Drive.
11. Commerce Drive from the intersection of Commerce Drive and County Highway 16 north to Industrial Drive.
12. All land owned by the City of Blue Earth except that portion of the Fairgrounds lying within the Race Track area.
Section 630 - Parking Regulations

630.01. Parking Presumption. As to any vehicle parking in violation of any provision of this Chapter, when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner.

630.02. General Parking Prohibitions. It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places: (1) on a sidewalk; (2) in front of a public or private driveway; (3) within an intersection; (4) within ten feet of a fire hydrant; (5) on a crosswalk; (6) within twenty (20) feet of a crosswalk at any intersection; (7) within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway; (8) within fifty (50) feet of the nearest rail of a railroad crossing; (9) within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign-posted; (10) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; (11) on the roadway side of any vehicle stopped or parked at the edge or curb of a street; (12) upon any bridge or other elevated structure upon a street; (13) at any place where official signs prohibit or restrict stopping, parking or both; (14) in any alley, except for loading and unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; or, (15) on any boulevard which has been curbed.

630.03. Boat, Trailer and Recreational Vehicle Parking.

Subd. 1. Definitions. For the purposes of this Subsection, the following definitions are hereby adopted:

A. The term “Boat” means any device used of capable of being used for navigation on water.

B. The term “Trailer” shall include every vehicle designated or utilized for the transportation of any boat, auto, hauling trailer, utility trailer, snowmobile, and the like, which does not have motive power but is designed to be drawn by another vehicle.

C. The term “Recreational Vehicle” means a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation and vacation uses and/or vehicles with travel, recreation and vacation uses and/or vehicles with “RV” license plates. A recreational vehicle shall include, but not be limited to, the following: travel trailers, pickup campers, motorized homes and camping trailers.

D. The term “Owner” means a person other than a lienholder having a property interest in or title to a boat, trailer, or recreational vehicle. The term includes a person entitled to the use or possession of a boat trailer, or recreational vehicle, subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation.

E. The term “Camper” means a separate vehicle designed for human habitation and which can be attached directly onto or attached with a fifth wheel or other towing mechanism or detached from a light truck. When removed from the truck, campers are called unmounted campers. These campers are sometimes called truck campers.
F. The term “Camping Trailer” means a type of trailer or trailer coach, the walls of which are so constructed as to be collapsible and made out of either canvas or similar cloth, or some form of rigid material such as fiberglass, plastic, or metal. The walls are collapsed while the recreational vehicle is being towed or stored and are raised or unfolded when the vehicle becomes temporary living quarters and is not being moved.

G. The term “Motor Home” means a structure constructed integrally with a truck or motor van chassis designed for human habitation and incapable of being separated therefrom. The truck or motor van chassis may have single or double rear wheels.

H. The term “Boat Trailer” or “Snowmobile Trailer” means the vehicle on which a boat or snowmobile may be transported and which is towable by a passenger car, station wagon, pickup truck or a recreational vehicle as defined above. A private boat or private snowmobile when removed from the trailer is termed an unmounted boat or snowmobile.

Subd. 2. General Conditions.

A. Dwelling Use. No boat, trailer, recreational vehicle, camper, camper trailer or motor home shall be used as a permanent dwelling, storage, or other accessory building.

B. Flammable Liquids. The owner of a boat, trailer or recreational vehicle shall not park, let stand, or store such vehicle when the propane tank valve has not been closed. The owner of a boat, trailer or recreational vehicle shall also not park, let stand or store such vehicle when it contains fuel used for propulsion or heating which are stored in tanks other than permanent mounted tanks.

C. Dangerous or Unsafe Storage or Parking. The owner of a boat, trailer, or recreational vehicle shall not park, let stand, or store such vehicle in such a manner as to create a dangerous or unsafe condition on the street or property where parked, permitted to stand, or stored.

D. Street Parking. No boat, trailer, utility trailer or recreational vehicle shall be permitted to park on any City street or parking lot for more than forty-eight (48) continuous hours. At no time shall a trailer be left upon a City street or parking lot unattached to a motorized vehicle for more than forty-eight (48) continuous hours.

E. Proof of Ownership. A legal or beneficial owner of, or lessee of the property shall have, and display upon, request to authorized City officials, proof of ownership of a parked, standing, or stored boat, trailer, or recreational vehicle.

F. License Required. All boats, trailers, or recreational vehicles shall display current State license plates or other registration certificates.

G. Waste Dumping. Boats or recreational vehicles shall dump sewage only into approved sanitary facilities.

630.04. Unauthorized Removal. It is unlawful for any person to move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

630.05. Direction to Proceed. It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.

630.06. Parallel Parking. Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or both, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with,
and within twelve (12) inches of, the right-hand curb, and, where painted markings appear on the curb or the street, such vehicle shall be within such markings, front and rear, provided that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within twelve (12) inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street; and it is unlawful to park in violation of this Subsection.

630.07. Angle Parking. Where angle parking has been established by Council resolution, and is allowed, as shown by curb marking or sign-posting, or both, each vehicle stopped or parked shall be at an angle of approximately forty-five (45) to sixty (60) degrees with the front wheel touching the curb and within any parking lines painted on the curb or street, provided that the front wheels not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic; and it is unlawful to park in violation of this Subsection.

630.08. Streets Without Curb. Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street; and it is unlawful to park in violation of this Subsection.

630.09. Parking Hours.

**Subd. 1. Time Limitation.** No vehicle may be parked in one spot on City streets for a period in excess of seventy-two (72) hours.

**Subd. 2. Parking Zones.** The Chief of Police may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as five (5) minute, ten (10) minute, fifteen (15) minute, thirty (30) minute, one (1) hour, two (2) hour, four (4) hour, six (6) hour, eight (8) hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in any space so limited when sign-posted.

630.10. Emergency. In order to facilitate movement of traffic and promote public convenience in times of emergency, the following additional parking restrictions shall be in effect.

**Subd. 1. “Emergency” defined.** An emergency means a condition created on City streets because of the presence of snow, freezing rain, sleet, ice or snow drifts thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or likely to impede the free movement of fire, health, police, emergency or other vehicular traffic when the same have been duly declared by the City Clerk/Administrator or his/her designee.

**Subd. 2. Declaration of an Emergency.** Whenever in the discretion of the Clerk-Administrator, or his or her designated agent, an emergency exists, he or she may declare the same and shall cause an announcement thereof to be made over the local news media. Snow emergencies shall be governed by the provisions of Section 640.

**Subd. 3. Unlawful Acts.** During an emergency, it is unlawful:

A. To park or leave a vehicle standing on streets running in a northerly or southerly direction (including Royal Acres and Tanglewood) on an even-numbered day.
B. To park or leave a vehicle standing on streets running in an easterly or westerly direction (including Fairview & Childs Addition) on an odd-numbered day.

630.11. Truck Parking.

**Subd. 1. Detached Trailers.** It is unlawful to park a detached semitrailer upon any street, City-owned parking lot, or other public property.

**Subd. 2 Semi-Tractor Rig Cabs.** It is unlawful to park a semi-tractor rig cab upon a City street, City-owned parking lot, or other public property located within the City of Blue Earth. Semi-tractor cabs may be parked on private property in accordance with the requirements of the City Code concerning the parking of private vehicles on private property within commercial and industrial zones of the City only. Semi-tractor rig cabs may be parked upon private property within residential districts of the City by permit only. Semi-tractor rig cabs may also be parked on City streets, City-owned parking lots and private property for reasonable periods of time necessary for the loading and unloading of their intended cargos.

**Subd. 3 Residential Semi-Tractor Rig Cab Permits.** A permit is required to park a semi-tractor rig cab upon any property located within a residential district for a period of longer than the time necessary to load or unload a cargo. Permits may be obtained for no charge at Blue Earth City Hall at 125 W. 6th Street, Blue Earth, Minnesota during normal business hours. Permits shall be good for a period of one year. As a condition of a permit, said semi-tractor rig cabs shall be prohibited from running idle upon property within residential districts from 10:00 p.m. until 6:00 a.m. and may not run idle within 25 feet of any neighboring residential home, excluding any home located upon the permitted parking location.

**Subd. 4. Other Zoning Districts.** It is unlawful to park a semi-trailer, whether or not attached to a truck-tractor, upon a city street within the zoned areas of the City for a period greater than what is necessary for the loading or unloading of the vehicle. Semi-trailer rigs may be parked on private property within the Business and Industrial zones of the City as long as there is an improved parking area for such vehicles.

**Subd. 5. Other Commercial Vehicles.** It is unlawful to park a commercial vehicle of more than one (1) ton capacity upon any street in the business district which has been duly sign-posted prohibiting the same, but parking of such vehicle for a period of not more than twenty (20) minutes shall be permitted in such space for the purpose of necessary access to abutting property for loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

**Subd. 6. Loading/Unloading.** It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projection beyond the original length of such vehicle, or any passenger bus, diagonally along any street except for a time sufficient to load or unload, and parallel parking shall be permitted.

**Subd. 7. Alley Parking Zones.** Parking of commercial vehicles is permitted in duly designated and sign-posted loading zones, and in alleys, for a period of up to twenty (20) minutes, provided that such alley parking does not prevent the flow of traffic therein, all of which shall be for the purpose of access to abutting or adjacent property for loading or unloading.

630.12. Parking Rules in Municipal Parking Lots. In municipally-owned parking lots, the Council may limit the sizes and types of motor vehicles to be parked thereon, hours of parking, and
prescribed method of parking, provided that such limitations and restrictions are signposted thereon. It is unlawful to park or leave standing any vehicle backed into a parking place, to drive in a direction opposite the flow of traffic marked by “one-way” signs or arrows, or to park any vehicle in any municipally owned parking lot contrary to the restrictions or limitations sign-posted therein.

630.13. Impounding and Removing Vehicles. When any police officer finds a vehicle standing upon a street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this Chapter. When any police officer finds a vehicle unattended upon any street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle in accordance with Subsection 520.05 of this Code.

630.14. Loading Zones. The Council may, by resolution, establish loading zones to be used for the specific purpose of loading or unloading merchandise from a commercial vehicle or vehicle temporarily being utilized in the transport of merchandise. Such loading zones shall be installed by order of the City Administrator where in the judgment of the Council a commercial loading zone is justified, and duly sign-posted.

630.15. Unattended Vehicle.

Subd. 1. Running Vehicles. It is unlawful for any person to leave a motor vehicle unattended while the engine is running.

Subd. 2. Keys in Vehicle. It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition.

630.16. Parking for the Purpose of Advertising or Selling Merchandise. It is unlawful for any person to park a vehicle on any street for the purpose of selling merchandise thereon or therein, or advertising any merchandise for sale or a forthcoming event, for a period longer than fifteen (15) minutes.

630.17. Physically Handicapped Parking. It is unlawful for any person to park in any stall which has been sign-posted for handicapped parking unless such person is transporting physically handicapped persons, or such other persons as are physically handicapped by reason of sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging and other disabilities that significantly reduce mobility, flexibility, coordination or perceptiveness.

630.18. Winter Parking Ban. Parking shall be prohibited upon City streets in accordance with Section 640.

630.19. Parking Penalties. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Misdemeanors. Where the specific Subsection, subdivision, subpart or provision
specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor where he or she stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding twelve (12) month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

Subd. 2. Petty Misdemeanors. As to any violation not constituting a misdemeanor under the provisions of subdivision 1 hereof, he or she shall be punished as for a petty misdemeanor.

Subd. 3. Parking Bans. The penalties for violations of snow emergency parking bans shall be governed by Section 640.

630.20. Parking Permits. Any person desiring to park in an area of the City of Blue Earth in which parking is prohibited, may apply for a permit to allow that person to park in a designated "no parking" zone.

A. Application shall be made in a form prescribed by the City Clerk/Administrator at City Hall located at 125 West 6th Street, Blue Earth, Minnesota.

B. The permit application shall state a time period for which the permit is requested, the make, model and license number of the vehicle to be parked in the designated no parking zone, the reasons for requesting the permit, the specific designated no parking area in which the applicant wishes to park, and any and all other information the City Clerk/Administrator determines is appropriate for deciding whether the permit should be issued.

C. The City Clerk/Administrator shall review each application giving due consideration to the impact that parking in the designated no parking zone would have on traffic flow, public safety, snow removal and travel of emergency vehicles. If, after review of the application, the City Clerk/Administrator concludes that parking in the designated no parking zone by the individual during the time stated in the application for the reasons stated in the application is consistent with public safety, the free flow of traffic, and state law, the City Clerk/Administrator may issue a permit to park in the designated no parking zone. The permit shall be effective for the period designated on the permit, which shall not exceed one year.
640.01. **Policy Statement.** The City of Blue Earth believes that it is in the best interest of the residents for the city to assume basic responsibility for control of snow and ice on city streets. Reasonable ice and snow control is necessary for routine travel and emergency service. The city will provide such control in a safe and cost effective manner, keeping in mind safety, budget, personnel and environmental concerns. The city will use city employees, equipment and/or private contractors to provide this service.

640.02. **Snow Removal and Ice Control Operations.**

**Subd. 1.** The Public Works Supervisor will decide when to begin snow removal or ice control operations. The criteria for that decision are:

A. Snow accumulation of 2 inches or more; with some consideration given to total accumulations expected per snowfall. For example if 3 to 5 inches of total accumulation are expected the decision may be to wait until snow has stopped.

B. Drifting of snow that causes problems for travel.

C. Icy conditions, which seriously affect travel.

D. Time of snowfall in relationship to heavy use of streets.

**Subd. 2. Plowing Procedures.** The snow will be plowed in a manner so as to minimize any traffic obstruction. The center of the roadway is normally plowed first. The snow shall then be pushed outward to the curb and onto the boulevard. When a plow goes on a bridge, the driver shall slow down so that snow does not go over the bridge if possible. In times of extreme snowfall, streets may not always immediately be completely cleared of snow.

640.03. **Priorities and Schedule for Which Streets Will be Plowed.**

**Subd. 1. Initial Plowing.** The city has classified city streets based on the street function, traffic volume, and importance to the welfare of the community. Those streets classified, as “Snow Emergency routes” will be plowed first. These are main roadways, which connect major sections of the city and provide access for emergency fire, police and medical services.

**Subd. 2.** The second priority streets are those providing access throughout the residential area including schools, commercial businesses and churches.

**Subd. 3.** The third priority is outlying areas such as the Industrial Park, Fairgrounds, etc.

**Subd. 4. Designated Emergency Routes.**

<table>
<thead>
<tr>
<th>Street Type</th>
<th>Street Name</th>
<th>Ends</th>
</tr>
</thead>
<tbody>
<tr>
<td>West 1st Street</td>
<td>from Main to County Road 16/Leland Parkway</td>
<td></td>
</tr>
<tr>
<td>West 2nd Street</td>
<td>from Main to Nicollet</td>
<td></td>
</tr>
<tr>
<td>7th Street</td>
<td>from East Street to Holland</td>
<td></td>
</tr>
<tr>
<td>East 10th Street</td>
<td>from Rice to Main</td>
<td></td>
</tr>
<tr>
<td>West 10th Street</td>
<td>from Main to Nicollet</td>
<td></td>
</tr>
<tr>
<td>East 11th Street</td>
<td>from Rice to Main</td>
<td></td>
</tr>
<tr>
<td>14th Street</td>
<td>from Hwy 169 to River Road./ Valley Highland</td>
<td></td>
</tr>
<tr>
<td>South Rice Street</td>
<td>from 7th to 17th Street</td>
<td></td>
</tr>
</tbody>
</table>
South Ramsey Street..... from 7th Street to 21st Street
Main Street.............. from Fairground Road to 14th Street
Nicollet Street.......... from 1st Street to 10th Street

640.04. **Snow Removal.** The Public Works Supervisor will determine when snow will be removed by truck from areas where there is no room for snow storage such as the downtown business area and in areas where accumulated piles of snow create a hazardous condition. Snow removal operations normally will not commence until the initial plowing operation has been completed. The City will refrain from snow removal on windrowed streets around churches during church services, and other church function such as funerals, etc. Snow removal operations may be delayed depending on weather conditions, personnel and budget availability and other factors. The snow will be removed and hauled to a snow storage area. The snow storage area will be located so as to minimize environmental problems.

640.05. **Snow Emergency.**

  **Subd. 1.** After the initial plowing of the city and the snow removal operation has been completed the City Clerk/Administrator or his/her designee will declare a snow emergency.

  **Subd. 2.** **Parking Prohibited.** During a snow emergency, parking is prohibited on north and south streets (including Royal Acres and Tanglewood) on even numbered days and east west streets (including Fairview & Childs Addition) on odd numbered days.

  **Subd. 3.** **Exempt Areas.** Church parking areas during church services and central business district parking areas during normal business hours will not be affected by snow emergency parking regulations. A snow emergency will remain in effect until such time as the emergency has been lifted.

  **Subd. 4.** **Notice.** The City Clerk/Administrator or his/her designee shall give reasonable notice to the public that a Snow Emergency is declared. Notice may be given by posting notice on the community bulletin board, by announcing on the radio, and by whatever means the council or the Clerk/Administrator or his/her designee determines to be reasonable. Notice that the Snow Emergency was lifted shall be similarly given.

640.06. **Work Schedule for Snowplow Operators.** Snowplow operators will be expected to work 8 to 12 hour shifts. In severe snow emergencies, operators sometimes have to work in excess of 8 to 12 hour shifts. However, because of safety concerns, no operator shall work more than a 16-hour shift in any 24-hour period. Operators will take a 15-minute break every 2 hours with a half-hour meal break after 4 hours.

640.07. **Weather Conditions.** Snow and ice control operations will be conducted only when weather conditions do not endanger the safety of city employees and equipment. Factors that may delay snow and ice control operations include severe cold, significant winds and limited visibility.

640.08. **Use of Sand, Salt and Other Chemicals.** The City will use sand, salt and other chemicals when there are hazardous ice or slippery conditions. The City is concerned about the effect of such chemicals on the environment and may limit its use for that reason.
640.09. Sidewalks. The City will maintain some of the sidewalks in the city. As there are a limited number of personnel available, the City will only maintain these sidewalks after the streets have been plowed or the City may choose to contract out the snow removal of city sidewalks. Sidewalks within the City that have not been cleared of snow 24 hours after a snowfall will be cleared of snow by the City at the resident's expense. Saturdays, Sundays and legal holidays shall not be included in calculating the 24 hour time period.

640.10. Mailboxes. In those instances in which the U.S. Postal Service does not provide door to door delivery, it is necessary for property owners to install mail boxes on city owned right-of-way immediately adjacent to the street curb. While the installation of mailboxes on city owned right-of-way is permitted, the mailbox owner assumes all risk of damage except where a mailbox is damaged through contact by snow removal vehicles. If a mailbox is damaged due to direct contact by a snow removal vehicle, the City, at its option, will repair or replace at a cost not to exceed $30.00. Also, additional cleaning around mailboxes is the resident's responsibility.

640.11. Responsibility. The Police Department will monitor the street conditions and inform the Public Works Department of hazardous street conditions after normal work hours. Also will assist the Public Works Department by enforcing parking regulations during snow plowing and snow emergency periods.


   Subd. 1. The penalty for the first violation of the on-street snow emergency parking ban is a written warning.
   Subd. 2. The penalty for the second violation of the on-street snow emergency parking ban is a $25 ticket.
   Subd. 3. The penalty for the third and each subsequent violation of the on-street snow emergency parking ban is a $25 ticket and towing the vehicle. The owner is responsible for towing costs.
CHAPTER 7

MUNICIPAL UTILITIES

Section 700 - General Provisions

700.01. Definitions. The following terms, as used in this Chapter, shall have the meanings stated:

Subd. 1. Utility. The term “utility” shall refer to all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

Subd. 2. Municipal Utility. The term “municipal utility” shall refer to any City-owned utility system, including, but not by way of limitation, water, sewer, electricity and steam heat.

Subd. 3. Public Utility. The term “public utility” shall refer to any investor-owned or privately held utility system.

Subd. 4. Company, Grantee and Franchisee. The terms “company”, “grantee”, and “franchisee” shall refer to any public utility system to which a franchise has been granted by the City.

Subd. 5. Consumer and Customer. The terms “consumer” and “customer” shall refer to any user of a utility.

Subd. 6. Service. The term “service” shall refer to providing a particular utility service to a customer or consumer.

700.02. Contractual Contents. Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this Chapter.

700.03. Deferral of Special Assessments.

Subd. 1. Special Assessment Deferral. Pursuant to Minnesota Statutes, Sections 435.193 through 435.195, senior citizens and retired disabled homeowners may defer special assessments levied against homestead property owned by the applicant if the criteria set forth in Subdivision 2 through Subdivision 6 of this Section are met by the application.

Subd. 2. Eligibility. Any person sixty-five (65) years of age or older or totally and permanently disabled (as determined by the Social Security Administration or any other standard or guideline adopted by resolution of the City Council) may defer special assessments levied against real property for public improvements if the following conditions are met.

A. Ownership. The applicant must be the fee simple owner of the property or must be a contract vendee for fee simple ownership. An application must provide either a recorded deed or contract for deed with the application to establish qualified ownership interest as required herein.

B. Homestead. The property must be the applicant’s principal place of domicile and
classified on the City’s and County’s real estate tax rolls as the applicant’s homestead.

C. Net Income. The applicant’s net income and net income of all other joint tenants, tenants in common, life tenants, remainder men, or contract vendees in title to the property may not exceed the amount determined by reference to the guidelines adopted by the City Council during the year preceding the assessment levy. Net income determinations shall be made under a formula set forth on a form provided by the City (or use of federal or state tax forms).

D. Nothing herein shall be construed to prohibit the determination of hardship on the basis of exceptional or unusual circumstances not covered by the above standards and guidelines where such determination is made in a nondiscriminatory manner and does not give the applicant unreasonable preference or advantage over other applicants.

Subd. 3. Interest on Deferred Assessment. All deferred special assessments shall be subject to interest, but the payment of such shall be deferred until the deferral period terminates. The deferred interest shall be calculated as if all principal payments had been made according to the original schedule of payments. Principal and interest payments shall commence upon termination of the deferral status.

Subd. 4. Termination of Deferral Status. Special assessment payments deferred pursuant to the eligibility requirements set forth by this Section shall become payable effective upon occurrence of one of the following events:

A. Sale of Property. The subject property is sold, transferred, subdivided, or in any way conveyed to another by the fee owner qualified for deferral status.

B. Death of Owner. The death of the fee owner qualified for deferral status unless a surviving spouse, joint tenant, tenant in common, or contract vendee is eligible for the deferral benefit provided hereunder.

C. Non-homestead Property. The subject property loses its homestead status for any reason.

D. No hardship. The owner no longer meets the financial requirements established by the City Council and as amended from time to time or the City Council determines that there would be no hardship to require an immediate or partial payment of the deferred special assessment. Eligibility shall be determined on a yearly basis by application to the Clerk-Administrator.

Subd. 5. Filing for Deferral Status - Fee. An eligible applicant must file an application on or before September 1 of the year preceding the year for which the deferral status is requested in order to implement the deferral program for said year. All deferral applications must be made on forms approved by the City and submitted to the Clerk-Administrator. The applicant may be charged an administrative fee as determined periodically by the City Council for the purpose of processing the application.


Subd. 1. Underground Construction Required. All utility lines hereafter installed, constructed or otherwise placed within the City for electric, telephone, TV cable or other like or similar services to serve residential, commercial and industrial customers in newly platted areas, and which utilize metallic conductors to carry electric current, whether owned, installed or constructed by the supplier, consumer or any party, shall be installed and placed underground, subject only to the exceptions hereinafter stated, however, above-ground placement, construction, modification or replacement of meters, gauges, transformers, street lighting and service connection pedestals shall be
allowed. The requirements of this Section shall apply equally outside of the corporate limits of the City coincident with City jurisdiction of platting, subdivision regulation or comprehensive planning as may now or in the future be allowed by law. All companies installing and operating lines such as those described herein shall be referred to as “utility companies” for purposes of this Section.

**Subd. 2. Exceptions to Application.** The following exceptions to the strict applicability of this Section shall be allowed upon the conditions stated:

A. Transmission Lines. Above-ground placement, construction, modification or replacement of those lines commonly referred to as “high voltage transmission lines” upon which the conductor's normal operating voltage equals or exceeds 23,000 volts (phase to phase) shall be allowed; provided, however, that sixty (60) days prior to commencement of construction of such a project, the City shall be furnished notice of the proposed project and, upon request, the utility company involved shall furnish any relevant information regarding such project to the City. This Section shall not be construed as waiving the requirements of any other ordinance or regulation of the City as the same may apply to any such proposed project.

B. Technical and Economic Feasibility. Above-ground placement, construction, modification or replacement of lines shall be allowed in residential, commercial and industrial areas where the Council, following consideration and recommendation by the Planning Commission and the Board of Public Works, finds that:

1. Underground placement would place an undue financial burden upon the landowner or the utility company or deprive the landowner of the preservation and enjoyment of substantial property rights; or,

2. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement.

C. Temporary Service. Above-ground placement of temporary service lines shall only be allowed:

1. During the new construction of any project for a period not to exceed twenty-four (24) months;

2. During any emergency to safeguard lives or property within the City;

3. For a period of not more than seven (7) months when soil conditions make excavation impractical.

**Subd. 3. Repair and Maintenance of Existing Installations.** Nothing in this Section shall be construed to prevent repair, maintenance, replacement or modification of existing overhead utility lines.

**Subd. 4. Placement.**

A. All utility lines shall be placed within appropriate easements or dedicated public ways so as to cause minimum conflict with other underground services.

B. All utility companies shall submit annually to the Building Inspector and the Board of Public Works current maps revealing locations of underground installations, whether such installations were installed prior to the effective date of this Section or hereafter.
Section 710 - Municipal Utilities

710.01. Board of Public Works.

Subd. 1. Composition. A Board of Public Works consisting of five (5) elected members serving terms of four (4) years shall exist in the City of Blue Earth in accordance with Chapter VII of the Charter for the City of Blue Earth.

Subd. 2. Responsibilities and Powers. The Board of Public Works shall be responsible for and shall have the general supervision of the utilities now and hereinafter owned by the City and shall be charged with the operation thereof with power to do any and all acts authorized by chapter VII of the City Charter.

710.02. Franchise Fee Payment From Board of Public Works. The Board of Public Works shall cause to be paid into the general funds of the City annually a percentage of the gross income from the sale of electricity, gas, water, heat and similar utility services not to exceed one-third of the net income of the Department of Public Works, in accordance with Section 7.04(n) of the Charter of the City of Blue Earth. The percentage paid is to be set by the City Council by a 5/7ths vote. In no event shall the payments jeopardize the payment of bonded indebtedness and interest obligations of the Department of Public Works.

710.03. Fixing Rates and Charges for Municipal Utilities. All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, connection and meter reading fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended by the Board of Public Works as specified in the Charter of the City of Blue Earth. All rates and charges shall meet the requirements of Section 7.04(g) of the Charter of the City of Blue Earth.

710.04. Connection or Tapping Prohibited - Delinquent Assessment or Charges. No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

710.05. Rules and Regulations Relating to Municipal Utilities.

Subd. 1. Permitting. A permit shall be obtained prior to making the following connections or repairs to sanitary sewer and stormwater systems within the City of Blue Earth: any repairs to a sanitary sewer service line; any replacement of sanitary sewer service line; footing drain repair or installation; addition or repair to roof drain connections to stormwater systems; any sump pump installations or re-plumbing of existing sump pumps; or any type of sewer work or repair that would result in the discharge of water or wastewater from any source to the City sanitary sewer or stormwater collection systems.

Subd. 1.11. Fees. The fee for any such permit shall be the fee specified in the City’s Fee Schedule as set periodically by resolution of the Council, subject to any limitations imposed by State
Subd. 1.12. Reconnection. Any reconnection to sanitary sewer and stormwater systems is controlled under Section 710.04.

Subd. 2. Billing, Payment and Delinquency. All municipal utilities shall be billed monthly or quarterly and a utilities statement or statements shall be mailed to each consumer each month. All utilities charges shall be delinquent if they are unpaid at the close of business on the 10th day following such billing, provided, that if the 10th day shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted. A penalty not to exceed 10% thereof shall be added to, and become part of, all delinquent utility bills. If service is suspended due to delinquency it shall not be restored to that customer until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

Subd. 3. Application, Connection and Sale of Service. Application for municipal utility services shall be made upon forms supplied by the Department of Public Works, and strictly in accordance therewith. No connection shall be made until consent has been received from the Department of Public Works to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

Subd. 4. Discontinuance of Service. All municipal utilities may be shut off or discontinued whenever it is found that:

A. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith, or,

B. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof, or,

C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

D. Such a discontinuance is in compliance with any of the State laws regarding the “Cold Weather Rule”.

Subd. 5. Ownership of Municipal Utilities. Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

Subd. 6. Right of Entry. The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, or any part thereof, and for the purpose of connecting and disconnecting service. The City shall also have the right to refuse service if the right of entry is denied. The City shall further have authority to impose a surcharge on a utility bill for a parcel of property in an amount specified in the City’s fee schedule as adopted by the City Council from time to time by resolution when access is denied for the months service is provided to the property in which the City has not been able to disconnect existing service which has been officially refused by denial of the right of entry for inspection.

Subd. 7. Meter Test. Whenever a consumer shall request the City to test any utility meter in
use by him or her, such a request shall be accompanied by a cash deposit of $10.00 for each meter to be tested. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and the $10.00 deposit shall be retained by the City and any additional costs incurred in testing shall be billed to the customer.

**Subd. 8. Unlawful Acts.**

A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.

B. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

D. It is unlawful for any person to “jumper” or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

**710.06. Municipal Utility Service Outside the City.** Premises located outside the City other than those located within the established Public Service Commission distribution boundaries shall not be connected to or served by any municipal utility, except such premises as are publicly owned or presently served. Persons needing municipal utility service whose property is located outside the corporate limits must initiate and complete annexation proceedings in advance prior to being provided with such service or services.

**710.07. Rules and Regulations Relating to Electricity.**

**Subd. 1. Code Requirement.** All wiring, connections and appurtenances shall be installed and performed strictly in accordance with the National Electrical Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of electrical service to any consumer.

**Subd. 2. Services.** New or changed service installations shall be made at the expense of the consumer, placed underground where designated by the City, and the meter location shall also be designated by the City. Overhead service installations may be permitted by the City (1) temporarily during new construction; (2) temporarily during an emergency to prevent danger to persons or property; (3) for a period of not more than seven months when soil conditions make excavation for underground service impractical, or (3) where to require underground service, the consumer has shown that such requirement is unduly burdensome.

**Subd. 3. Electrical Installations.** All new electrical installations shall comply with the following, where applicable:

A. Motors of 20 HP or more must have line compensators on same. Provided, however, that the City may, at its option, make an exception if the total connected motor load
required is smaller than the consumer connected load, and the motor starting current is less than the current corresponding to the consumer's total connected load.

B. Any establishment having a total motor load of 125 HP or more is required to have 440 volts for its motor load.

C. All motor installations of less than 5 HP shall be supplied with 240 volt single phase energy except: (1) motors of ½ HP or smaller may be 120 volt; or (2) three phase motors of 3 HP or more may be served from existing secondary power circuits where only service wires and meters are required.

D. The City shall make an installation charge for extraordinary expenses required by a consumer.

710.08. Rules and Regulations Relating to Steam Heat. All traps, valves, and other equipment, connected with the municipal steam heat system shall be of the type approved by the City. All such equipment shall meet maintenance and operation standards approved by the City.
720.01. Administration of Sewer and Water Services. The administration of City sewer and water utilities shall be in accordance with Section 7.03 of the Charter of the City of Blue Earth.

720.02. Rules and Regulations Relating to Sewer Services.

Subd. 1. City Sewer Service Charge System.
   A. Definitions: Unless the context specifically indicates otherwise, the meaning of the terms used in this ordinance shall be as hereafter designated:
      1. Administration Costs. The phrase “administration costs” means those fixed costs attributable to administration of the wastewater treatment works (i.e., billing and associated bookkeeping and accounting costs).
      2. Biochemical Oxygen Demand or BOD5. The phrase “Biochemical Oxygen Demand (BOD5)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20' C, expressed in milligrams per liter.
      3. City. The term “city” means the area within the corporate boundaries of the City of Blue Earth, as presently established or as amended by ordinance or other legal actions at a future time. When used herein the term “City” may also refer to the City Council or its authorized representative.
      4. Commercial User. The term “commercial user” means any place of business which discharges sanitary waste as distinct from industrial wastewater.
      5. Debt Service Charge. The phrase “debt service charge” means a charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct said facilities.
      6. Governmental User. The term “governmental user” means users which are units, agencies or instrumentalities of federal, state, or local government discharging Normal Domestic Strength wastewater.
      7. Normal Domestic Strength Wastewater. The phrase “normal domestic strength waste water” means wastewater that is primarily produced by residential users, with BOD5 concentrations not greater than 227 mg/l and suspended solids concentrations not greater than 273 mg/l and ammonia-nitrogen (NH3-N) concentrations not greater than 37 mg/l.
      8. Extra Strength Waste. The phrase “extra strength waste means wastewater having a BOD5 and/or TSS greater than domestic waste as defined in this Section and not otherwise classified as an incompatible waste.
      9. Incompatible Waste. The phrase “incompatible waste” means waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.
      10. Industrial Users or Industries. The terms “industrial users” or “industries” mean:
           a. Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes,
or from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemental under one of the following divisions:

- Division A - Agriculture, Forestry and Fishing
- Division B - Mining
- Division D - Manufacturing
- Division E - Transportation, Communications, Electric, Gas, and Sanitary Sewers
- Division I - Services

For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

- BOD5 Less than 227 mg/l
- Suspended Solids Less than 273 mg/l
- Ammonia-Nitrogen Less than 37 mg/l

b. Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

11. Industrial Wastewater. The phrase “industrial wastewater” means the liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Divisions A, B, D, E, and I manufacturers as distinct from domestic wastewater.

12. Institutional User. The term “institutional user” means users other than commercial, governmental, industrial or residential users, discharging primarily Normal Domestic Strength wastewater (e.g. Non-profit organizations).

13. Operation and Maintenance. The terms “operation” and “maintenance” mean activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and maintenance includes replacement.

14. Operation and Maintenance Costs. The terms “operation cost” and “maintenance cost” mean the expenditures for operation and maintenance, including replacement.

15. Public Wastewater Collection System. The phrase “public water collection system” means a system of sanitary sewers owned, maintained, operated and controlled by the City.

16. Replacement. The term “replacement” means the obtaining and installing of equipment, accessories, or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

17. Replacement Costs. The phrase “replacement costs” means expenditures
18. Residential User. The term “residential user” means a user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.

19. Sanitary Sewer. The phrase “sanitary sewer” means a sewer intended to carry only liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.

20. Sewer Service Charge. The phrase “sewer service charge” means the aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users to the City's wastewater treatment facilities.

21. Sewer Service Fund. The phrase “sewer service fund” means a fund into which income from Sewer Service Charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater treatment.

22. Shall and May. The term “shall” is mandatory. The term “may” is permissive.

23. Slug. The term “slug” means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.


25. Suspended Solids (SS) or Total Suspended Solids (TSS). The terms “suspended solids (SS)” and “total suspended solids (TSS)” mean the total suspended matter that either floats on the surface or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater”, latest edition, and referred to as nonfilterable residue.

26. Toxic Pollutant. The term “toxic pollutant” means the concentration of any pollutant or combination of pollutants as defined in standards issued pursuant to Section 307 (a) of the Act, which upon exposure to or assimilation into any organism will cause adverse effects.

27. User Charge. The term “user charge” means a charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

28. Users. The term “users” means those residential, non-residential, and industrial establishments which are connected to the public sewer collection system.

29. Wastewater. The term “wastewater” means the spent water of a community, also referred to as sewage. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.
30. Wastewater Treatment Works or Treatment Works. The phrases “wastewater treatment works” or “treatment works” refer to an arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

B. Establishment. The City of Blue Earth hereby establishes a Sewer Service Charge System whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

1. Proportionment. Each user shall pay its proportionate share of operation maintenance and replacement costs of the treatment works, based on the user's proportionate contribution to the total wastewater loading from all users.

2. Debt Service Charges. Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

3. Sewer Service Rates. Sewer Service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a “Sewer Service Charge System” developed according to the provisions of this Section. Subsequent changes in Sewer Service rates and charges shall be adopted by Council resolution and shall be published in the official newspaper.

4. Revenues. Revenues collected for Sewer Service shall be deposited in a separate fund known as “The Sewer Service Fund”. Income from revenues collected will be expended to offset the cost of operation, maintenance and equipment replacement for the facility and to retire the debt for capital expenditure.

5. Administration of Charges. Sewer Service Charges and the Sewer Service Fund will be administrated in accordance with the subsequent provisions of this Section.

C. Determination of Sewer Service Charges.

1. User Classes. Users of the City of Blue Earth wastewater treatment works shall be identified as belonging to one of the following user classes:
   a. Residential
   b. Commercial
   c. Governmental
   d. Institutional
   e. Industrial

The allocation of users to these categories for the purpose of assessing User Charges and Debt Service Charges shall be the responsibility of the Clerk-Administrator. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

2. Proportionment. Each user shall pay operation, maintenance, and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, with the minimum rate for loadings of BOD, TSS and NH3-N being the rate established for concentrations of 227 mg/l BOD and 273 mg/l TSS and 37 mg/l (NH3-N) (i.e. Normal Domestic Strength Wastewater). Those “Industrial Users” discharging segregated
“Normal Domestic Strength Wastewater” only, can be classified as “Commercial Users” for the purpose of rate determination.

3. Residential User Charges. The charges assessed residential users and those users of other classes discharging “Normal Domestic Strength Wastewater” shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows.

a. Residential Users. Billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The billable wastewater volume shall be equal to 90 percent of the yearly metered water usage. The city may require residential users to install meters for the purpose of determining billable wastewater volume.

b. Non-Residential Users. The billable wastewater volume of non-residential users will be determined on 100 percent of the metered water usage as recorded throughout the year. The City may, at its discretion, require nonresidential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

4. Determination of User Charges. User Charges for Normal Domestic users shall be determined as follows:

a. Calculation of Unit Cost for Treatment of Normal Domestic Strength Wastewater:

\[ U_{omr} = \frac{Comr}{T_{bwv}} \]

Where:
- \( U_{omr} \) = Unit cost for operation, maintenance and replacement in $/Kgal.
- \( Comr \) = Total annual OM & R costs.
- \( T_{bwv} \) = Total annual billable wastewater volume in kgal.

b. Calculation of User Charge:

\[ Uc = U_{omr} \times bwv \]

Where:
- \( Uc \) = User Charge
- \( U_{omr} \) = Unit cost for operation, maintenance and replacement in $/kgal.
- \( bwv \) = Billable wastewater volume of a particular user in kgal

5. Recovery of Local Construction Costs. Local construction costs of the wastewater treatment facility will be recovered through a Debt Service Charge calculated using wastewater volume and connection charges as follows:

a. Calculation of Debt Service Unit Cost for Wastewater Volume:

\[ Uds = \frac{CDs}{T_{bwv}} \]
Where: 

- **Uds** = Unit cost for debt service in $/kgal.
- ***CDS** = Cost of annual debt service assigned for wastewater volume.
- **Tbwv** = Total annual billable wastewater volume in Kgal.

*City may reduce the cost of annual debt service through the use of other City funds at its discretion.

b. Calculation of Debt Service Billable Connection Cost:

\[
UD = \frac{CDC}{Tc}
\]

Where:

- **UD** = Unit Billable Connection Cost for debt service.
- ***CDC** = Costs of Annual Debt Service Assigned for Connections.
- **Tc** = Total Number of Billable Connections

*City may reduce the cost of annual debt service through the use of other City funds at its discretion.

c. Calculation of Debt Service Charge.

\[
Dc = Uds \times bwv + UD \times u
\]

Where:

- **Dc** = Debt Service Charge.
- **Uds** = Unit Cost for Debt Service in $/Kgal.
- **UD** = Unit Billable Connection Cost for Debt Service.
- **u** = Number of Billable Connections for Particular User.
- **bwv** = Billable Wastewater Volume of a Particular User in Kgal.

6. Determination of Sewer Service Charges. The Sewer Service Charge for a particular connection shall be determined as follows:

\[
SSC = Uc + Dc
\]

Where:

- **SSC** = Sewer Service Charge
- **Uc** = User Charge
- **Dc** = Debt Service Charge

7. The Sewer Service charges established in this ordinance shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than Normal Domestic Strength or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:

a. The user pays Operation, Maintenance, and Replacements costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of “Normal Domestic Strength Wastewater”.
b. The measurements of such wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the City as provided for in subsequent provisions of this Section. A study of unit costs of collection and treatment processes attributable to Flow, BOD, TSS and other significant loadings shall be developed for determining the proportionate allocation of costs to flows and loadings for users discharging wastes of greater than normal domestic strength or wastes of unusual character.

D. Sewer Service Fund.

1. The City of Blue Earth hereby establishes a “Sewer Service Fund” as an income fund to receive all revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt. The City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:
   a. Operation and Maintenance Account
   b. Equipment Replacement Account
   c. Debt Retirement Account

2. All revenue generated by the Sewer Service Charge System, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk separate and apart from all other funds of the City. Funds received by the Sewer Service Fund shall be transferred to the “Operation and Maintenance Account,” the “Equipment Replacement Account,” and the “Debt Retirement Account” in accordance with State and Federal regulations and the provisions of this Section.

3. Revenue generated by the Sewer Service Charge sufficient to insure adequate replacement throughout the design of useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the “Equipment Replacement Account” and dedicated to affecting replacement costs. Interest income generated by the “Equipment Replacement Account” shall remain in the “Equipment Replacement Account.”

4. Revenue generated by the Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the “Operation and Maintenance Account.”

E. Administration. The Sewer Service Charge System and Sewer Service Fund shall be administered according to the following provisions:

1. The Clerk-Administrator shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in January. The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with the provisions of this Section and Section 204 (b) (2) (A) of the Federal Water Pollution Control Act, as amended. The City shall thereafter, but not later than the end of the year, reassess, and as necessary revise the Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

2. In accordance with Federal and State requirements each user will be
notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to operation, maintenance and replacement.

3. In accordance with Federal and State requirements, the Clerk-Administrator shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

4. Bills for Sewer Service Charges shall be rendered on a monthly basis succeeding the period for which the service was rendered and shall be due 30 days from the date of rendering. Any bill not paid in full after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed as 5% of the original bill and be placed in the City’s general fund.

5. The owner of the premises, shall be liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefore to the City.

6. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the dischargers of said wastes, at no expense to the City.

F. Penalties.

1. Each and every sewer service charge levied by and pursuant to this Ordinance is hereby made a lien upon the lot or premises serviced, and all such charges which are on December of each year past due and delinquent, shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Section shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

2. As an alternative to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by order of the court.

3. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 10% per annum.

Subd. 2. Sewer Use Regulations.

A. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Subdivision shall have the meanings hereinafter designated:


2. ASTM. The term “ASTM” means the American Society for Testing Materials.

3. Authority. The term “authority means the City of Blue Earth, Minnesota or its representative thereof.

4. BOD5 or Biochemical Oxygen Demand. The term “BOD5” or “Biochemical Oxygen Demand” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20' Centigrade in terms of
milligrams per liter (mg/1).

5. Building Drain. The term “building drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning immediately outside the building wall.

6. Building Sewer. The term “building sewer” means the extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.

7. City. The term “city” means the area within the corporate boundaries of the City of Blue Earth as presently established or as amended by ordinance or other legal actions at a future time. The term “City” when used herein may also be used to refer to the City Council and its authorized representative.

8. Chemical Oxygen Demand (COD). The term “chemical oxygen demand (COD) means the quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/1).

9. Compatible Pollutant. The phrase “compatible pollutant” means biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

10. Control Manhole. The phrase “control manhole” means a structure specially constructed for the purpose of measuring flow and sampling of wastes.

11. Easement. The term “easement” means an acquired legal right for the specific use of land owned by others.

12. Fecal Coliform. The phrase “fecal coliform” means any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

13. Floatable Oil. The phrase “floatable oil” means oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

14. Garbage. The phrase “garbage” means animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

15. Incompatible Pollutant. The phrase “incompatible pollutant” means any pollutant that is not defined as a compatible pollutant (Sec. 9) including non-biodegradable dissolved solids.

16. Industry. The term “industry” means any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, B, D, E, and I.

17. Industrial Waste. The phrase “industrial waste” means gaseous, liquid, and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery, and processing of natural resources, as distinct from residential or domestic strength wastes.

18. Infiltration. The term “infiltration” means water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.

19. Infiltration/Inflow (I/I). The Term “infiltration/inflow (I/I)” means the
total quantity of water from both infiltration and inflow.

20. Inflow. The term “inflow” means water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swamplike areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

21. Interference. The term “interference” means the inhibition or disruption of the City's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES and/or SDS Permit. The term includes of sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.

22. MPCA. The term “MPCA” stands for the Minnesota Pollution Control Agency.

23. National Categorical Pretreatment Standards. The phrase “National Categorical Pretreatment Standards” means federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or which would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.

24. National Pollutant Discharge Elimination System (NPDES) Permit. The term “national pollutant discharge elimination (NPDES) permit” is a permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.

25. Natural Outlet. The phrase “natural outlet” means any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.

26. Non-contact Cooling Water. The phrase “non-contact cooling water” means the water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added is heat.

27. Normal Domestic Strength Waste. The phrase “normal domestic strength waste” means wastewater that is primarily introduced by residential users with a BOD5 concentration not greater than 225 mg/l and a suspended solids (TSS) concentration not greater than 250 mg/l.

28. Person. The term “person” means any individual, firm, company, association, society, corporation, or group.

29. pH. The term “pH” means the logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

30. Pretreatment. The term “pretreatment” means the treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works.

31. Properly Shredded Garbage. The phrase “properly shredded garbage” means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than ½-inch (1.27 cm) in any dimension.
32. Sewage. The term “sewage” means the spent water of a community. The preferred term is wastewater.

33. Sewer. The term “sewer” means a pipe or conduit that carries wastewater or drainage water. The following are types of sewers:
   a. Collection Sewer. A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
   b. Combined Sewer. A sewer intended to serve as a sanitary sewer and a storm sewer.
   c. Forcemain. A pipe in which wastewater is carried under pressure.
   d. Interceptor Sewer. A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
   e. Private Sewer. A sewer which is not owned and maintained by a public authority.
   f. Public Sewer. A sewer owned, maintained and controlled by a public authority.
   g. Sanitary Sewer. A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
   h. Storm Sewer or Storm Drain. A drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.

34. Shall and May. The term “shall” is mandatory; the term “may” is permissive.

35. Significant Industrial User. The phrase “significant industrial user” means any industrial user of the wastewater treatment facility which has a discharge flow (1) in excess of 25,000 gallons per average work day, or (2) has exceeded five percent (5%) of the total flow received at the treatment facility, or (3) whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307 (a) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by the treatment system.

36. Slug. The term “slug” means any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

37. State Disposal System (SDS) Permit. The “State Disposal System (SDS) permit” is any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.

38. Superintendent. The term “superintendent” means the utilities superintendent or a deputy, agent or representative thereof.

39. Suspended Solids (SS) or Total Suspended Solids (TSS). The terms “suspended solids (SS)” or “total suspended solids (TSS)” mean the total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water
and Wastewater”, latest edition, and referred to as nonfilterable residue.

40. Toxic Pollutant. The phrase “toxic pollutant” means the concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to Section 307 (a) of the Act.

41. Unpolluted Water. The phrase “unpolluted water” means water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities.

42. User. The term “user” means any person who discharges or causes or permits the discharge of wastewater into the City's wastewater disposal system.

43. Wastewater. The term “wastewater means the spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.

44. Wastewater Treatment Works or Treatment Works. The phrases “wastewater treatment works” or “treatment works” mean an arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation or municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

45. Watercourse. The term “watercourse” means a natural or artificial channel for the passage of water, either continuously or intermittently.

46. WPCF. “WCPF” stands for The Water Pollution Control Federation.

47. Clerk-Administrator. The term “clerk-administrator” means the duly appointed official of the City which assists the City in the operation of its affairs or a deputy, agent or representative thereof.

B. Control by the Clerk-Administrator. The Clerk-Administrator shall have control and general supervision of all public sewers and service connections in the City, and shall be responsible for administering and provisions of this ordinance to the end that a proper and efficient public sewer is maintained.

C. Illegal Acts.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.

2. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and the City's NPDES/SDS Permit.

3. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

4. The owner(s) of all houses, buildings, or properties used for human
occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this Code, within ninety (90) days of the date said public sewer is operational, provided said public sewer is within 500 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection.

5. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under the provisions of this Section, the City must undertake to have said connection made and shall assess the cost thereof against the benefited property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Faribault, Minnesota and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Section.

D. Private Wastewater Disposal.

1. Where a public sewer is not available under the provisions of Article III, Section 4, the building sewer shall be connected to a private wastewater disposal system complying with the Faribault County Subsurface Sewage Treatment Ordinance.

2. Prior to commencement of construction, replacement, or substantial repair of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary to the City.

3. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within thirty (30) days.

4. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the State of Minnesota.

E. Building Sewers and Connections.

1. Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, but not limited to capacity for flow, BOD5, and Suspended Solids, as determined by the Clerk-Administrator.

2. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

3. Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building beyond the limits of the building or property for which the service connection permit has been given.

4. There shall be (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information
considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

5. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

6. It is the responsibility of the owner to maintain the sanitary sewer service line from the building to the sanitary sewer main connection. The City is not obligated to clean or repair or replace service lines and has no responsibility for damages arising from clogged, broken or damaged service lines.

7. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

8. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Clerk-Administrator or his or her representative, to meet all requirements of this Section.

9. The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9, shall apply.

10. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewer carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

11. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or indirectly to the wastewater disposal system.

12. The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

13. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the City Administrator or authorized representative thereof.

14. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory
F. Use of Public Services.

1. No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, ground water, roof runoff, surface drainage, or noncontact cooling water to any sanitary sewer.

2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Industrial cooling water of unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City and upon approval and the issuance of a discharge permit by the MPCA.

3. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
   a. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
   b. Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
   c. Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
   d. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307 (a) of the Act.

4. The following described substances, materials, water, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Clerk-Administrator may set limitations lower than limitations established in the regulations below if, in his or her opinion, such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability of wastes, the Clerk-Administrator will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the City's NPDES and/or SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or
wastewater discharged to the sanitary sewer which shall not be violated without approval of the City Administrator are as follows:

a. Any wastewater having a temperature greater than 150°F (65.60°C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104°F (40°C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.

b. Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (00°C and 65.60°C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

c. Any quantities of flow, concentrations, or both which constitute a “slug” as defined herein.

d. Any garbage not properly shredded, as defined in Article I, Section 31. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers.

e. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

f. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to dye wastes and vegetable tanning solutions.

g. Non-contact cooling water or unpolluted storm, drainage, or ground water.

h. Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to sodium chloride and sodium sulfate) in such quantities that would cause disruption with the wastewater disposal system.

i. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

j. Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works in excess of the following limits for such materials:

- 0.5 mg/l arsenic
- 0.5 mg/l molybdenum
- 0.5 mg/l cadmium
- 0.5 mg/l selenium
- 1.5 mg/l copper
- 0.5 mg/l cyanide
- 1.5 mg/l lead
- 0.05 mg/l mercury
- 1.5 mg/l nickel
- 0.5 mg/l silver
- 0.5 mg/l total chromium
- 1.5 mg/l zinc

phenolic compounds which cannot be removed by City's wastewater treatment system.
k. Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation, or ordinance of any regulatory agency, or state or federal regulatory body.

l. Any waters or wastes containing BOD5 or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of Section 16 of this Article.

5. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in a provision of this Section, and/or which in the judgment of the Clerk-Administrator may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment; receiving waters, and/or soil, vegetation, and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the City may:

   a. Reject the wastes,
   b. Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307 (b) of the Act and all addendums thereof,
   c. Require control over the quantities and rates of discharge, and/or,
   d. Require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer service charges. If the City permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owners’ expense, and shall be subject to the review and approval of the City pursuant to the requirements of the MPCA.

6. No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained herein, or contained in the National Categorical Pretreatment Standards or any state requirements.

7. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner(s).

8. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in this Section, any flammable wastes as specified in this Section, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Clerk-Administrator. Any removal and hauling of the collecting materials not performed by the owner's personnel, must be performed by a currently licensed waste disposal firm.

9. Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by the owner to be safe and accessible at all
10. The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the City, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this Ordinance and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents with Federal, State and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

11. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Section shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Clerk-Administrator.

12. Where required by the City, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this Section. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Clerk-Administrator for review and approval prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this Section. Users shall notify the Clerk-Administrator immediately upon having a slug or accidental discharge of substances of wastewater in violation of this ordinance to enable countermeasures to be taken by the Clerk-Administrator to minimize damage to the wastewater treatment works. Such notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the City on account thereof under any State and Federal law. Employees shall insure that all employees who may cause or discover such a discharge, are advised of the emergency notification procedure.

13. No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within thirty (30) days after receipt of written notice from the City, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform such other work as the Clerk-Administrator may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of thirty (30) days, the Clerk-Administrator may cause such work to be completed at the expense of the owner or representative thereof.

14. Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Clerk-Administrator may direct. Each day after thirty (30) days that a person neglects or fails to so act shall constitute a separate violation of
this Section, and the Clerk-Administrator may then cause the work to be done, and recover from such owner or agency the expense thereof by an action in the name of the City.

15. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times, a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

16. In addition to any penalties that may be imposed for violation of any provision of this Section, the City may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge or prohibited wastes by such applicable to the type of service, and in accordance with the provisions set forth in this Section.

G. Damage to Wastewater Facilities. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

H. User Rate Schedule For Charges. Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions set forth in Subdivision 1.

I. Power and Authority of Inspectors.

1. The Clerk-Administrator or other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to the discharges to the City's sewer system in accordance with the provisions of this ordinance.

2. The Clerk-Administrator or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential however, the industry must establish that the revelation to the public of the information in question, might result in an advantage to competitors.

3. While performing necessary work on private properties, the Clerk-Administrator or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this Section.

4. The Clerk-Administrator or other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

J. Penalties.

1. Any person found to be violating any provision of this ordinance, shall be served by the City with written notice stating the nature of the violation and providing a reasonable
time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Any person who shall continue the violation beyond the time limit provided for in Subpart 1 above, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding $700.00 for each violation. Each day in which any such violation occurs shall be deemed as a separate offense.

3. Any person violating any of the provision of this Section shall become liable to the City for any reason of such violation.

Subd. 3. Unlawful Acts and Penalties, Natural/Ground Water Infiltration and Inflow.

A. It is unlawful for any person to make or maintain a connection between eaves troughs, rainspouts, footing drains, or any other conductor used to carry natural precipitation or ground water, and the sanitary sewer system or any part thereof.

B. Any property owner in violation of this Subdivision and upon receiving notice of said violation, shall disconnect the conductor from the sanitary sewer system by the end of the year in which the property owner is notified of the violation. Any property owner in violation of this Subdivision after January 1, 2011 shall be assessed a monthly surcharge, the amount of which will be established by Resolution of the City Council, for each month that the conductor is not permanently disconnected. Failure to permanently disconnect the conductor, or reconnection of a disconnected conductor may result in the suspension of water and sanitary sewer service.

C. It is unlawful to discharge stormwater or any other unpolluted drainage anywhere other than a specifically designed storm sewer or a natural outlet approved by the City and other regulatory agencies.

D. Any property found where a reconnection of a disconnected I/I conductor has occurred shall be assessed a surcharge in an amount set by resolution of the City Council per month. The surcharge shall be calculated from the date of inspection and approval until disconnection has been reestablished. Failure to permanently disconnect the conductor shall result in the suspension of water and sanitary service.

E. Any property in violation of this Subdivision shall be a petty misdemeanor punishable by a $300.00 fine in addition to the surcharges specified in subparts B and D above herein.

F. Inspections: After January 1, 2011, every property owner that owns improved property within the City which is connected to the City’s sanitary sewer system shall within 30 days after written notice from the City allow a representative of the City to inspect both the inside and outside of buildings located on his or her improved property to confirm that there is no prohibited discharge into the municipal sanitary sewer system.

G. Certificate of Compliance: In lieu of an inspection by the City, a property owner can furnish to the City a Certificate of Compliance from a licensed plumber on an approved City form certifying that the property has no prohibited discharge into the City sanitary sewer system in cases of new construction and/or remodel work.

H. Failure to Pay Monthly Surcharge. If the improved real property owner fails to pay the monthly surcharge for failure to disconnect an illegal sanitary sewer system connection or failure to allow an inspection by the City, then the City may suspend both water and sewer service after 15 days notice of intent to do so for failure to pay said surcharge.

I. Waiver of Requirements. The City Council may, by resolution, provide for the waiver by reason of hardship from the requirements of this Subdivision.
720.03. Rules and Regulations Relating to Water Services.

Subd. 1. Deficiency of Water and Shutting Off Water. The City is not liable for any deficiency or failure in the supply of water to customers whether occasioned by shutting the water off for the purpose of making repairs or connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to insure a supply for fire fighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as may be necessary.

Subd. 2. Repair of Leaks. It is the responsibility of the consumer or owner to maintain the service pipe from the main stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his service pipe within twenty-four (24) hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the flow of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately.

Subd. 3. Abandoned Services Penalties. All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of excavation. The City shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. When new buildings are erected on the site of old ones, and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in properly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City and the cost incurred shall be borne by the person causing or allowing such work to be performed.

Subd. 4. Service Pipes. Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than six feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the main and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. All services must be installed in such a manner as to allow the connection of a meter. A valve, the same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for a service up to seventy feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be seven-eighths inch outside diameter or three-fourths inch inside diameter.

Subd. 5. Private Water Supplies. No water pipe of the City water system shall be connected with any pump, well, pipe, tank or any device that is connected with any other source of water supply and when such are found, the City shall notify the owner or occupant to disconnect the same and, if not immediately done, the City water shall be turned off. Before any new connections to the City system are permitted, the City shall ascertain that no cross-connections will exist when the new connection is made. When a building is connected to “City Water” the private water supply
may be used only for such purposes as the City may allow.

Subd. 6. Restricted Hours for Sprinkling. Whenever the City shall determine that a shortage of water threatens the City, it may limit the times and hours during which water may be used from the City water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof.

Subd. 7. Private Fire Hose Connections. Owners of structures with self-contained fire protection systems may apply for and obtain permission to connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the Council may adopt by resolution as herein provided.

Subd. 8. Opening Hydrants. It is unlawful for any person, other than members of the Fire Department or other person duly authorized by the City, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.

Subd. 9. Unmetered Service. Unmetered service may be provided for construction, flooding skating rinks, and any other purpose. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied: provided, however, that by acceptance thereof the consumer agrees to have the City estimate the water used. In so estimating the City shall consider the use to which the water is put and the length of time of unmetered service.

Subd. 10. Code Requirement. All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of water service to any consumer.

Subd. 11. Connection Fees. Service shall be furnished only after proper application has been made and connection fees paid in full.

720.04. Prohibition of New Private Water Wells. No new private water wells shall be allowed to provide water within the City limits of the City of Blue Earth. All new structures needing water service shall be required to hook up to the City water system for a supply of water.
**Section 730 – City Storm Water Utility**

**730.01. Establishment.** Pursuant to Minnesota Statute §444.075, the City of Blue Earth hereby establishes a public utility for storm water drainage which shall be known as the Storm Water Drainage Utility in and for the City of Blue Earth. The Storm Water Drainage Utility shall be operated as a public utility pursuant to the City Charter, City Code and applicable statutes. The revenues therefrom shall be derived subject to provisions of this Section and Chapter 444 of the Minnesota Statutes. The Storm Water Drainage Utility shall be part of the Public Works Department and shall be administered by the Public Utilities Director, the City Public Works Director under the administration of the City Administrator.

**730.02. Findings and Determination.**

Subd. 1. In the exercise of the governmental authority and in order to promote the public health, safety, and general welfare, the City of Blue Earth has constructed, operated and maintained a storm water drainage system. This ordinance is adopted in further exercise of such authority and responsibility for the same purpose.

Subd. 2. The system, as constructed heretofore, has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of financing which allows for the recovery of some or all of the future costs of improving, establishing, enlarging, replacing, repairing, maintaining and operating said Storm Water Drainage System through the imposition of charges as provided in this ordinance.

**730.03. Storm Water Drainage Fees.** Income for the Storm Water Drainage Utility account will be generated from a fixed monthly fee as set by resolution of the City Council of the City of Blue Earth from time to time billed to all residents who currently are billed for sanitary sewer usage. The Storm Water Drainage Utility fees shall be added to the current bill issued by the City’s Light and Water Department and shall be due and payable in the same fashion as current water and sewer usage charges.

**730.04. Penalties and Remedies for Delinquencies.** A penalty charge of an amount set by resolution of the City Council shall be imposed for late payments or non-payment of Storm Water Drainage Utility Fees. Said late payments shall be added for each month or part thereof that said fee remains unpaid.

**730.05. Exemptions.** The following land uses are exempt from Storm Water Drainage Utility Fees.

a. Public right of ways
b. Lakes, wetlands and rivers
c. Undeveloped independent parcels not receiving water or sewer service
d. Dedicated cemeteries

**730.06. Certification of Past Due Fees on Taxes.** Any past-due Storm Water Drainage Utility fees
in excess of 90 days past due on October 1 of any year may be certified to the County Auditor’s office for collection with real estate taxes in the following year pursuant to Minnesota Statute §444.075, Subd. 3. In addition, the City shall also retain the right to bring a civil action or take other legal remedies to collect the unpaid fees.

730.07. Establishment of a Fund. All fees collected for the Storm Water Drainage Utility shall be placed in a fund for Storm Water Drainage Utility purposes. Revenues shall be used to pay for the construction, reconstruction, repair, enlargement, improvement, or other expansion, maintenance, operation and use needs of necessary facilities and for all other purposes as permitted by Minnesota Statute §444.075 for Storm Water Drainage Utilities.
Section 740 – City Dumpster Service Utility

740.01. Establishment. Pursuant to Minnesota Statutes §412.211 and §412.221, the City of Blue Earth hereby establishes a public utility for the use of City owned garbage and refuse disposal containers, commonly known as dumpsters, by citizens of the City for the purposes of disposal of mixed solid waste within the City limits. The City Dumpster Service Utility shall be operated as a public utility pursuant to the City Charter, City Code and applicable statutes. All revenues therefrom shall be derived subject to the provisions of this Section.

740.02. Findings and Determination of Need.

Subd. 1. The City Council of the City of Blue Earth finds that in order to promote the public health, safety and general welfare, the City is in need of an alternative method for disposal of mixed solid wastes by its residents that will allow for the disposal of said wastes by the use of a dumpster at no cost to residents in the City on a 1 time per year basis. This Section is adopted to fund such a dumpster service for its citizens. The City Council finds that such a utility is reasonable and comparable to the mixed solid waste disposal system operated by Faribault County, Minnesota for the townships surrounding the City of Blue Earth.

Subd. 2. This 1 time per year dumpster service shall be funded by a franchise fee which will allow for the recovery of present and future costs of maintaining and operating the Dumpster Service Utility through the imposition of said fee as provided for in this Section.

740.03. Establishment of a Fund. All fees collected for the Dumpster Service Utility shall be placed in a fund for Dumpster Service purposes. Revenues shall be used for the maintenance, operation and use needs of necessary facilities, equipment and labor for said Dumpster Service Utility.

740.04. Dumpster Service Fees. Income for the City Dumpster Service Utility account will be generated from a fixed monthly fee as set by resolution of the City Council from time to time billed to all residents who currently are billed for sanitary sewer usage. The Dumpster service fees shall be added to the current bill issued by the City’s Light and Water Department and shall be due and payable in the same fashion as current water and sewage usage charges.

740.05. Exemptions. The following land uses are exempt from the Dumpster Service Utility fees.
   a. Public lands and right-of-way.
   b. Undeveloped independent parcels not receiving water or sewer service.
   c. Dedicated cemeteries.
CHAPTER 8

RIGHT-OF-WAYS, STREETS AND SIDEWALKS

Section 800 - Right-Of-Way Regulations

800.01. Street Openings and Excavations. The purpose of this Subsection is to govern excavations and construction within public streets, alleys, and right-of-ways by developers, contractors, and other persons within the City of Blue Earth.

    Subd. 1. Definitions. The terms used in this Chapter shall have the meaning given to them in Minnesota Statutes Chapter 237 or any successor statute and Minnesota Rules Chapter 7819 or any successor Rules.

    Subd. 2. Administration. The City Clerk/Administrator is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The City Clerk/Administrator may delegate any or all of the duties hereunder.

    Subd. 4. Excavations Permit. It shall be unlawful for any person, other than authorized City employees, to dig up, excavate, tunnel, drill, bore, undermine, or in any other manner break up any public way or public ground or to make or cause to be made any excavation in or under the surface of any public way or public ground, or to place, deposit, or leave upon any public way or public ground earth or excavated material obstructing or tending to interfere with the free use of the public way or public ground unless such person shall have first obtained a permit from the City.

    Subd. 5. Permit Application. Application for a permit to make a street opening, excavation, or any disturbance of the public infrastructure shall be made at City Hall and shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation or other disturbance of the infrastructure and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the Clerk-Administrator.

    Subd. 6. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

    Subd. 7. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

    Subd. 8. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i)
make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

**Subd. 9. Limitation on Dates.** A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

**Subd. 10. Investigation of Estimated Costs and Deposits.**

A. Upon receipt of such application, the Clerk-Administrator shall cause an investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigation shall be included in such estimate.

B. Upon submission of an application, the City may require an applicant to deposit with the Clerk-Administrator a construction bond or cash deposit to cover the estimated cost of repair as security for the proper completion of the excavation or other disturbance of the infrastructure and the restoration of the site to its previous condition. The security shall be held until the completion of the construction work to guaranty that the restoration work has been satisfactorily completed. If the restoration work done by the applicant needs repair as determined by the Clerk-Administrator, the applicant shall do all necessary repair work. In the event the applicant fails or refuses to do the necessary repair work, the City may do the work and the cost of repair plus any administrative expenses shall be deducted from the security. Upon completion of the restoration of the site, the security or balance thereof remaining shall be refunded to the applicant. In the event that any restoration cost or completion of any work shall exceed the amount of the security, the applicant shall be liable for the additional costs.

C. The applicant may in lieu of individual security or bond for each excavation deposit with the City a bond on the amount of $5,000.00 or more based on the circumstances. The bond shall be held until construction is completed and for a period of twelve months thereafter to guaranty that the restoration work has been satisfactorily completed.

**Subd. 11. Indemnification.** Before issuance of the permit, the applicant shall in writing agree to indemnify and hold the City harmless for any liability injury or damage arising out of the action of the applicant in the performance of the work to include any expense whatsoever incurred by the City incident to a claim or action brought or commenced by any person arising therefrom.

**Subd. 12. Permit Fee.** Upon approval of the application for the excavation permit, the applicant shall pay the fee specified in the City’s fees schedule, as periodically set by resolution of the Council, subject to any limitations imposed by State law. The amount of the fee shall be to cover reasonable costs for the issuance of the permit and inspection required.

**Subd. 13. Issuance of Permit.** If the Clerk-Administrator finds that the applicant has satisfied the requirements of this Subsection and it appears that the applicant can comply with the current regulations, then the Clerk-Administrator shall issue a written permit. The City shall attempt to grant approval within twenty-four (24) hours of submission of the application.

**Subd. 14. Duties of the Applicant.** The applicant shall notify the City of the date that construction will begin prior to beginning construction. The applicant is required to provide
effective safeguards to protect pedestrians and vehicular traffic. The applicant shall be responsible for any damage which may occur to the owners of any other improvements as a result of the excavation or disturbance of the infrastructure.

Subd. 15. Emergencies. The permit requirement may be waived in emergency situations that require the restoration of utility services to customers. Notice shall be provided and an application for permit submitted to the City within a reasonable time after service has been restored.

Subd. 16. Denial of Permit. The City may deny a permit for failure to meet the requirements and conditions of this Chapter or if the City determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Subd. 17. Installation Requirements. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 or any successor Rules, and other applicable local requirements, insofar as they are not inconsistent with the Minnesota Statutes §237.162 and §237.163 or any successor Statute.

Subd. 18. Penalty for Violation. Persons violating this Section shall be guilty of a misdemeanor.

Section 800.013 Revocation of Permits.

Subd. 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

(a) The violation of any material provision of the right-of-way permit;
(b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
(c) Any material misrepresentation of fact in the application for a right-of-way permit;
(d) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee’s control; or
(e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.15.

Subd. 2. Written Notice of Breach. If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. Permittee’s failure to so contact the City, or permittee’s failure to timely submit an acceptable plan, or permittee’s failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
Subd. 4. Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the City for the City’s reasonable costs, including Restoration costs and the costs of collection and reasonable attorney’s fees incurred in connection with such revocation.

Subd. 5. Appeal. A right-of-way user that: (1) has been denied a permit; (2) has had permit revoked; or (3) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming or reversing the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Section 800.015 Right-of-Way Patching and Restoration.

Subd. 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under Section 1.12.

Subd. 2. Patch and Restoration. Permittee shall patch its own work. The permittee shall restore or coordinate with the City to provide restoration of the right of way.

(a) City Restoration. If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such Restoration, the pavement settles due to permittee’s improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.

(b) Permittee Restoration. If the permittee restores the right-of-way itself, it shall restore concrete or bituminous materials by employing only contractors licensed to restore concrete or bituminous materials by the City of Blue Earth.

Subd. 3. Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the City and shall comply with Minnesota Rule 7819.1100 or any successor Rule, and according to the specifications and standards on file in the office of the Clerk-Administrator and then open to inspection and copying there.

Subd. 4. Duty to Correct Defects. The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 1.12.

Subd. 5. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction performance bond, if any.

Subd. 6. Inspection. The Council shall designate a suitable and competent person to perform inspections required herein and such other inspection of such work as deemed necessary.
Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

Section 800.017 License to Replace Bituminous or Concrete Materials in a Public Right-of-Way

Subd. 1. Necessity of License. Any person who replaces or repairs bituminous or concrete materials in a public right-of-way must first obtain a license from the City of Blue Earth authorizing them to repair or replace pavement or bituminous materials in the right-of-way. It is a misdemeanor to repair or replace pavement or bituminous materials in the right-of-way without first obtaining a license from the City.

Subd. 2. Conditions. Prior to being issued a license to repair or replace bituminous or concrete materials in a right-of-way, a person must first attend and complete an informational meeting held by the City setting out the manner in which bituminous and concrete repairs or replacements must be done. This meeting shall be scheduled and presented by the City Clerk/Administrator or his designee.

Subd. 3. Term of License. Each license shall be issued for a one year period.

Subd. 4. Revocation of License. The City may revoke any license issued to any individual for repair or replacement of bituminous or pavement materials in the City right-of-way if that individual fails to repair or replace bituminous or concrete materials according to the specifications required by the City. This revocation shall be made upon the recommendation of the City Clerk/Administrator after approval by the City Council. An individual whose license is subject to revocation shall be given notice of the date and time that the City Council will meet to consider the City Clerk/Administrator’s recommendation that his license be revoked, and shall be given an opportunity to be heard at that City Council meeting prior to a decision by the Council.

Subd. 5. Appeal. A right-of-way user that: (1) has been denied a license; or (2) has had license revoked; may have the denial or revocation reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial or revocation will be in writing and supported by written findings establishing the reasonableness of the decision.
800.02. Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb and Gutter.

Subd. 1. Methods of Procedure.
A. Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this subsection if advance payment is made therefor or arrangements for payment considered adequate by the City are completed in advance.
B. With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with Section 429.011, as the same may from time to time be amended.

Subd. 2. Permit Required. It is a misdemeanor to construct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the City without a permit in writing from the City. Application for such permit shall be made on forms approved and provided by the City and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All such applications shall contain an agreement by the applicant to be bound by this Chapter and plans and specifications consistent with the provisions of this Chapter and good engineering practices shall also accompany the application. A permit from the City shall not relieve the holder from damages to the person or property of another caused by such work.

Subd. 3. Specifications and Standards. All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the Clerk-Administrator and open to inspection and copying there. Such specifications and standards may be amended from time to time by the City, but shall be uniformly enforced.

Subd. 4. Inspection. The Council shall designate a suitable and competent person to perform inspections required herein and such other inspection of such work as deemed necessary. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

Subd. 5. Special Assessments and Payment. In the event any portion of the cost of construction or repair of any roadway surface, sidewalk or curb and gutter upon any public property is to be defrayed by special assessment, the procedure prescribed in Minnesota Statutes Chapter 429, as amended, shall be followed. Any abutting or affected property owner shall be allowed to make either full or partial pre-payment to the City for said special assessments as authorized by Minnesota Statutes §429.061 as amended.

800.03. Requirements of Sewer and Water Main Lateral Installation.

Subd. 1. Requirement of Sewer and Water Laterals. No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations
shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.

**Subd. 2. Sewer System Service and Water Main Service Laterals.** No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

**Subd. 3. Waiver.** The Council may waive the requirements of this Subsection only if it finds the effects thereof are burdensome and upon such notice and hearing as the Council may deem necessary or proper.

### 800.04. Curb Set-Back.

**Subd. 1. Permit Required.** It is a misdemeanor for any person to hereafter remove, or cause to be removed, any curb from its position abutting upon the roadway to another position without first making application to the Council and obtaining a permit therefor.

**Subd. 2. Agreement Required.** No such permit shall be issued until the applicant, and abutting landowner if other than applicant, shall enter into a written agreement with the City agreeing to pay all costs of constructing and maintaining such set-back area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove such set-back and reconstruct the area as was at the expense of the landowner, his or her heirs or assigns if the area ever, in the Council's opinion becomes a public hazard. Such agreement shall be recorded in the office of the Register of Deeds, and shall run with the adjoining land.

**Subd. 3. Sign-Posting.** ANGLE PARKING ONLY signs shall be purchased from the City and erected and maintained at the expense of the adjoining landowner in all such setback areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in such set-back areas, as such angle parking is herein described and allowed.

**Subd. 4. Public Rights Reserved.** Such set-back parking areas shall be kept open for public parking and the abutting landowner shall at no time acquire any special interest or control of or in such areas.
810.01. Sidewalk Maintenance and Repair.

Subd. 1. Primary Responsibility. It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

Subd. 2. Construction, Reconstruction and Repair Specifications. All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the Clerk-Administrator.

Subd. 3. Notice - No Emergency. Where, in the opinion of the Clerk-Administrator, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ninety (90) days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 4. Notice - Emergency. Where, in the opinion of the Clerk-Administrator, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ten (10) days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 5. Failure of Owner to Reconstruct or Make Repairs. If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the Clerk-Administrator shall report such failure to the Council and the Council may order such work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

Subd. 6. Duty to Inspect. In order to accomplish the purpose of this Subsection, it shall be the duty of the Clerk-Administrator to inspect sidewalks within the City, or cause the same to be inspected under his or her direction.

810.02. Obstructions, Fire, Dumping, Signs and Other Structures.

Subd. 1. Obstructions. It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon any street or other public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public.

Subd. 2. Fires. It is a misdemeanor for any person to build or maintain a fire upon a roadway.

Subd. 3. Dumping in Streets. It is a misdemeanor for any person to throw or deposit in any street or any other public place any nails, dirt, glass, tin cans, metal scraps, garbage, leaves, grass or tree limbs, shreds or rubbish, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this Subsection to haul any soil or material, not adequately enclosed or covered, thereby permitting the same to fall upon the streets.

Subd. 4. Signs and Other Structures. It is a misdemeanor for any person to place or
maintain a sign or other structure in the traveled or untraveled portion of any street or other public property without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or building provisions of the City Code.

**Subd. 5. Continuing Violation.** Each day that any person continues in violation of this subsection shall be a separate offense, and punishable as such.

810.03. Private Use of Public Streets and Parking Lots.

**Subd. 1. Authority, Permission and Procedure.** Upon an application duly made to the Clerk-Administrator and reviewed and recommended by the City Engineer, the Council may in its discretion, grant special permission whereby on-street parking or the use of City-owned parking lots or public sidewalks may be temporarily or permanently prohibited or restricted for private reasons and purposes (including, but not limited to, establishment of private or “leased” parking, “loading zones”, or display of merchandise on sidewalks) at such places, on such terms and for such compensation as the Council may deem just and equitable. In establishing the amount of such compensation to be paid to the City, the Council shall consider the amount of space, location thereof, loss of parking meter revenues, if any, public inconvenience, and hazards to persons or property. Upon complaint of any aggrieved person at any time and by reason of any specific special permission so granted, the Council shall at its next regular meeting after receipt of such complaint, call a hearing thereon to be held after ten (10) days notice in writing to applicant and complainant and published notice at least ten (10) days prior to such hearing. After such hearing the Council shall by resolution decide whether to terminate, continue or re-define the terms of such permission and such decision shall be final and binding on all persons directly or indirectly interested therein, except that the Council may, on its own motion, reconsider the same.

**Subd. 2. Public Vehicles.** Free and reserved on-street parking shall be limited to City-owned and operated vehicles, unless otherwise permitted by the City Code.

**Subd. 3. Forbidden Practices.** It is unlawful for any person to park or otherwise infringe upon a grant of right under this Subsection, when clearly and distinctly marked or sign-posted. It is unlawful for any person not granted such right to assert the same, or for any grantee of such right to exceed the same under claim thereto.

810.04. Curb and Gutter, Street and Sidewalk Painting or Coloring. It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by City employees acting within the course or scope of their employment. Provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the Clerk-Administrator.
**Section 820 - Boulevard Regulation**

**820.01. Boulevard Planting.** New trees, herbaceous plants or shrubs shall be planted at least five feet behind what is designated as the curb, plantings shall be reviewed by both the City Engineer and Public Works Director, and they shall be planted in a manner consistent with the terms of this Ordinance. Boulevard is defined as that part of the public right-of-way which exists between the edge of the street and the beginning of a private landowner’s property line. Planting shall be permitted by permit only.

A. The owner of a lot fronting on or adjacent to any portion of a street shall maintain any trees, shrubs, hedges or other landscaping along said street or within the street right-of-way adjacent to his or her property in such nondangerous condition that the trees, shrubs, hedges or other landscaping will not interfere with the public convenience or safety in the use of the streets and sidewalks. Owners shall maintain such street trees so that there is a minimum nine-foot (9) vertical pedestrian clearance from the top of the sidewalk and a minimum sixteen-foot (16) vertical vehicular clearance from the top of the curb, to any part of a street tree. All plantings shall be reviewed to address future utility improvement conflict avoidance.

B. For purposes of this part, maintenance of trees, shrubs, hedges and other landscaping includes but is not limited to deep root watering, root pruning, installing root barriers, clearance and structural trimming, fertilizing, pest control, and removal of branches, leaves and other debris. In the case of removal due to utility/street construction impacts, the City Engineer shall dictate and transmit a final removal plan to the City Council.

C. Property owners required by this section to maintain trees, shrubs, hedges and other landscaping shall owe a duty to members of the public using public streets and sidewalks to maintain such trees, shrubs, hedges or other landscaping in compliance with provisions under this title and city-adopted pruning guidelines, in a safe and nondangerous condition for users of the public streets and sidewalks.

D. If any fronting or adjacent property owner fails to maintain any adjacent trees, shrubs, hedges or other landscaping in a nondangerous condition as required by this section, and any person suffers damage or injury to person or property, the fronting or adjacent property owner shall be liable for all damages or injuries caused by the failure of the owner to maintain these areas.

**820.02. Permits.**

**Subd. 1.** No person shall plant or remove trees, herbaceous plants or shrubs in a public boulevard without first obtaining a permit from the City to do so.

**Subd. 2.** The following provisions apply to the issuance of permits for planting trees or herbaceous plants or shrubs on a public boulevard.

A. The Application: An application for a permit shall state the number of trees, herbaceous plants or shrubs to be planted or removed, the location, size and specific species of each tree, herbaceous plant or shrub. The application shall be filed with the City Clerk/Administrator...
with the correct permit fee as set by resolution of the City Council.

B. Standards for Issuance: Permits shall be issued after the application has been determined to be in compliance with the City Land Use and Subdivision Chapters of the Blue Earth City Code as determined by the City Clerk/Administrator.

C. Replacement: As a condition to granting a tree removal permit, the City may require the applicant to relocate or replace trees in a manner consistent with the City’s Land Use and Subdivision Chapters of the City Code.

D. Permit Denial: If a tree planting or permit is denied, the reasons for denial shall be set forth in writing given to the applicant. The permit fee collected at the time of application shall be refunded to the applicant.

E. Denial Appeal: Any applicant adversely affected by the decision may appeal to the City Council.

820.03. Areas Not Applicable.

Subd. 1. The removal of trees on public easements/rights-of-way, conducted by or on behalf of Federal, State, County, or Municipal or other Governmental agency in pursuance of its lawful activities or functions in construction or improvements;

Subd. 2. The removal of any tree by a public utility when such tree has the reasonable potential of endangering the facilities operation by the utility.

820.04. Prohibitive Obstructions.

Subd. 1. Obstructing View. No tree or herbaceous plant or shrub shall be planted or allowed to grow so as to obstruct the view of any vehicular traffic on streets or pathways or pedestrians on pathways.

Subd. 2. Utilities. No tree may be planted under or within 10 lateral feet of any overhead utility wire or over or within 10 lateral feet of any underground water line, sewer line, phone cable, electrical wire, or television cable.

820.05. Trimming of Trees. Private property trees must be trimmed so as not to cause a hazard to persons or property on abutting property. All trees shall be pruned to sufficient height to allow free passage to pedestrians and vehicular traffic 9 feet over sidewalks and 16 feet over streets.

820.06. Tree Ordinance Fees. Fees for all permits and other applicable required city services under this Ordinance shall be as set forth in the City Fee Schedule as periodically set by the City Council.

820.07. Emergencies. In the case of emergencies involving but not limited to tornados, wind storms, floods, freezes or other natural disasters, the requirements of this Chapter may be waived by the Mayor, or in the absence of the Mayor, the acting Mayor.
Section 830 - Violations

830.01. Violations. Every person violates a Section, Subsection, subdivision, subpart or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as specified in subsections 820.02 and 820.03.

830.02. Misdemeanors. Where the specific subsection, subdivision, paragraph or provision specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor; where he or she stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding twelve (12) month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

830.03. Petty Misdemeanors. As to any violation not constituting a misdemeanor under the provisions of Subsection 820.02 hereof, he or she shall be punished as for a petty misdemeanor.
CHAPTER 9

BUILDING AND CONSTRUCTION LICENSING AND REGULATION

Section 900 - Building and Construction

900.01 Codes Adopted by Reference. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference in this Code. The Minnesota State Building Code is hereby incorporated in this Code as if fully set out herein.

900.02. Application, Administration and Enforcement. The application, administration and enforcement of this section shall be in accordance with the Minnesota State Building Code. This section shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62. Subd. 1., when so established by this section. This section shall be enforced by the Minnesota Certified Building Official(s) designated by the City Council of the City of Blue Earth annually.

900.03. Permits, Inspections, and Fees.

Subd. 1. Applicable Rules. The issuance of permits and the collection of fees shall be as authorized by Minnesota Statute 16B.62.

Subd. 2. Fees. Section 900.03 Permits, Inspections, and Fees shall be set from time to time by resolution of the City Council.

Subd. 3. Refund Policy. Any permits that are voided, the City shall retain any monies paid for costs already incurred, both with plan review and inspections. Any costs not incurred, that portion of the permit fee collected can be refunded.

Subd. 4. Investigation Fee. For any work started without a permit, where a permit is required, shall be required to obtain a building permit and pay the appropriate fee, at which time there will also be assessment of an investigation fee, which shall be equal to the building fee.

900.035. Violations and Penalties. A violation of the code is a misdemeanor (Minnesota Statute 16B.69.)

900.04. Surcharge. In addition to the permit fee required under Subsection 900.03 above, the applicant for a building permit shall pay a surcharge to be remitted to the Minnesota Department of Administration as prescribed by Minnesota Statutes, Section 16B.70.

900.05. Powers and Duties of the Building Inspector. In addition to those enumerated in the Administrative Chapter of the City Code, the Building Inspector shall have the following powers and duties:
Subd. 1. Right of Entry. Upon presentation of proper credentials, the Building Inspector or his or her duly authorized representative, may enter at reasonable times any building, structure, or premises in the City to perform any duty imposed upon him or her by this Chapter.

Subd. 2. Stop Orders. Whenever any building work is being done contrary to the provisions of this Chapter the Building Inspector may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Inspector to proceed with the work.

Subd. 3. Occupancy Violations. Whenever any structure is being used contrary to the provisions of this Chapter, the Building Inspector may order such use discontinued and the structure or portion thereof vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of this Chapter.

Subd. 4. Liability. The Building Inspector, or any employee charged with the enforcement of this Chapter, acting in good faith and without malice for the City in the discharge of his or her duties, shall not thereby render themself liable personally and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the Building Inspector or employee because of such act or omission performed by him or her in the enforcement of any provisions of this Chapter, shall be defended by the City Attorney until final determination thereof and any judgment resulting therefrom shall be assumed by the City. This Chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the building department or the City be held as assuming any such liability by reason of the inspection authorized by this Chapter or any permits or certificates issued under this Chapter.

Subd. 5. Modifications. When there are practical difficulties involved in carrying out the provisions of this code, the Building Inspector may grant modifications for individual cases. The Building Inspector shall first find that a special individual reason makes the strict letter of this Chapter impractical and that the modification does not lessen any fire-protection requirements or any degree of structural integrity. The details of any action granting modifications shall be recorded in the files of the Building Inspector at the department offices in City Hall.

Subd. 6. Alternate Materials, Alternate Design and Methods of Construction. The provisions of this Chapter are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this code, provided any alternate has been approved and its use authorized by the Building Inspector. The Building Inspector may approve such alternate, provided the Building Inspector finds that the proposed design is satisfactory and complies with the provisions of this Chapter and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Chapter in stability, strength, effectiveness, fire resistance, durability, safety and sanitation. The Building Inspector shall require that sufficient evidence of proof be submitted to substantiate any claims that may be made regarding the use. The details of any action granting approval of an alternate shall be recorded in the files of the Building Inspector at the department offices in City Hall.

Subd. 7. Tests. Whenever there is insufficient evidence of compliance with any of the provisions of this Chapter or evidence that any material or construction does not conform to the
requirements of this Chapter, the Building Inspector may require tests as proof of compliance to be
made at no expense to the City. Test methods shall be as specified in the Minnesota State Building
Code or by other recognized or accepted test methods for the proposed alternate, the Building
Inspector shall determine test procedures. Test methods shall be made by an approved agency. Reports
of such tests shall be retained by the Building Inspector at the department offices in City
Hall for the period required for the retention of public records.

Subd. 8. Cooperation of Other Officials and Officers. The Building Inspector may
request, and shall receive, the assistance and cooperation of other officials of the City so far as
required in the discharge of the duties required by this Chapter or other pertinent law or ordinance.

900.06. Unsafe Buildings.

Subd. 1. Definition and Abatement. All buildings or structures which are structurally
unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise
dangerous to human life, or which in relation to existing use constitute a hazard to safety or health,
or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or
abandonment, as specified in the Minnesota State building Code, another provision of the City Code,
or any other law, are, for the purpose of this Subsection, unsafe buildings. Parapet walls, cornices,
spires, towers, tanks, statuary, or other appendages or structural members which are supported by,
attracted to, or a part of a building and which are in deteriorated condition or otherwise unable to
sustain the design loads which are specified in this Chapter are also hereby designated as unsafe
building appendages. All such unsafe buildings and appendages are hereby declared to be public
nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the
procedure specified herein.

Subd. 2. Notice to Owner. The Building Inspector shall examine or cause to be examined
every building or structure or portion thereof reported as dangerous or damaged and, if such is found
to be an unsafe building, the Building Inspector shall give to the owner of such building or structure
written notice stating the defects therein. This notice may require the owner or person in charge of
the building or premises, within forty-eight (48) hours, to commence either the required repairs or
improvements or demolition and removal of the building or structure or portions thereof, and all
such work shall be completed within ninety (90) days from the date of notice, unless otherwise
stipulated by the Building Inspector. If necessary, such notice also shall require the building,
structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and
improvements are completed, inspected, and approved by the Building Inspector. Proper service of
such notice shall be by personal service upon the owner of record, if he or she shall be found within
the City. If he or she is not found therein such service may be made upon said owner by registered
mail or certified mail, provided, that if such notice is by registered mail or certified mail, the
designated period within which said owner or person in charge is required to comply with the order
of the Building Inspector shall begin as of the date of delivery shown upon the return receipt.

Subd. 3. Posting of Signs. The Building Inspector shall cause to be posted at each entrance
to such building a notice to read: “DO NOT ENTER, UNSAFE TO OCCUPY. Building
Department, City of Blue Earth.” Such notice shall remain posted until the required repairs, demo-
lition, or removal are completed. Such notice shall not be removed without written permission of the
Building Inspector and no person shall enter the building except for the purpose of making the
required repairs or of demolishing the building.
Subd. 4. Right to Demolish. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this Chapter and may seek an order for summary enforcement from the Court for the abatement of a nuisance in the manner specified in Minnesota Statutes Chapter 463 or any successor statute. If such an order is granted, the Council may then order the Building Inspector to proceed with the work specified in such order. A statement of the cost of such work shall be transmitted to the Council, who shall cause the same to be paid and levied as a special assessment against the property.

Subd. 5. Costs. Costs incurred under subdivision 4 of this Subsection shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and collected in any manner authorized by Minnesota Statutes Chapter 463 or any successor statute.

Subd. 6. Unlawful Act. It is unlawful for the owner of any property to suffer or permit an unsafe building as defined herein to remain thereon.

Subd. 7. Violations and Penalties. A violation of any part of this Section is a misdemeanor.

900.07 Building Code Optional Chapters. The Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16B.75 allows the City to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the Minnesota State Building Code are hereby adopted and incorporated herein as part of this Section.

1. None.
Section 910 - Miscellaneous Building Regulations.


910.02. Toilet Installation Required. It is the duty of every owner or occupant of any property within the City, having a dwelling house or business building situated thereon, which property abuts a street in which there is installed City water and sewer mains, to install a toilet in such dwelling or business building and make connection thereof with such water and sewer mains. When a toilet connected with the City water and sewer system has been installed in any residence or business building on any parcel of land, any outside toilet, cesspool or septic tank on that parcel is declared a nuisance and shall be filled or removed by the owner within ten (10) days after the connection to the water and sewer system has been made. Whenever the non-compliance of the owner or occupant of such property is reported to the City, the police department shall forthwith make such investigation as is necessary and proper and report the findings to the Council. If the Council finds that the lack of toilet facilities is an unhealthful and unsanitary condition, the Clerk-Administrator shall serve written notice upon said owner or occupant requiring the installation of toilet facilities upon the premises described in said notice, and connection thereof with the sewer and water mains, all of which shall be done within thirty (30) days after service of such written notice. Whenever any owner or occupant shall default in compliance with such written notice the Council may by resolution direct that a toilet be installed and connection made with the sewer and water mains and that the actual cost of such installation be paid in the first instance out of the General Revenue Fund, and assessed against the property so benefited. After such installation and connection is completed by order of the Council, the City shall serve a written notice of intention to make an assessment therefor. If such assessment is not paid within ten (10) days the City shall certify the amount thereof to the County Auditor in the same manner as with other special assessments, provided that the Council may by resolution provide that the assessment be spread over a term of three (3) years upon written request by the owner of the property.

910.03 Remote-Type Water Meters Required. In all new construction using one-inch size water meter, or smaller, remote-type water meters shall be installed at the expense of the owner.

910.04. Open Pits, Basements and Other Excavations. It is unlawful for any person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool or other excavation on said premises open and without protection for the public.

910.05. Mobile Home Foundation Requirements. All mobile homes located within the City of Blue Earth that are not located in an area zoned as a mobile home park shall be placed on foundations consisting of continuous solid walls which extend below the frost line.
Section 920 - Fire Regulations

920.01. Adoption of the Minnesota Uniform Fire Code. The Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. Three copies of said Fire Code shall be marked CITY OF BLUE EARTH - OFFICIAL COPY and kept on file in the office of the Clerk-Administrator and open for inspection and use by the public.

920.02. Fire Zones Established. Fire Zones One, Two and Three are hereby established and shall encompass the parts of the City under those respective designations, as follows:

   Subd. 1. Fire Zone One. Fire Zone One shall consist of all areas designated Commercial in any zoning provision now or hereafter established.

   Subd. 2. Fire Zone Two. Fire Zone Two shall consist of all areas designated as Industrial or Limited Industrial in any zoning provision now or hereafter established.

   Subd. 3. Fire Zone Three. Fire Zone Three shall consist of all areas not described in the foregoing Subdivisions 1 and 2.

920.03. Fire Key Lock Box System Required.

   Subd. 1. Where Required. The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Chief:
   A. Commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency;
   B. Multi-family residential structures that have restricted access through locked doors and have a common corridor for access to the living units;
   C. Governmental structures and nursing care facilities.

   Subd. 2. New Structures. All newly constructed structures subject to this Subsection shall have the key lock box installed and operational prior to the issuance of an occupancy permit.

   Subd. 3. Type and Location. The Fire Chief or authorized representative shall designate the type and location of the key lock box system to be implemented within the City and shall have the authority to require all structures to use the designate system.

   Subd. 4. Access. The owner or operator of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure. The Fire Chief shall be authorized to implement rules and regulations for the use of the lock box systems.

   Subd. 5. Penalty. Any person who owns or operates a structure subject to this Subsection and fails to install and maintain a fire key lock box system shall be guilty of a misdemeanor.

920.04. Residence and Business Address Numbering.

   Subd. 1. Intent and Purpose. The purpose of this section is to provide for the uniform displaying of addresses for residences and businesses within the City of Blue Earth. The goal is to enable emergency vehicles, utility trucks, and postal and delivery trucks to easily find the correct address while providing services.
Subd. 2. Applicability. It is a violation of the City Code for any person or business to fail to display to the public the address of their occupied premises as required in this Section. Violations of this Section are unlawful and punishable as misdemeanors.

Subd. 3. Compliance. Residence and Business addresses shall be displayed in a manner viewable from a distance of 150 feet or more. Each address shall be posted next to a doorway or garage entrance to the structure and viewable from the street. Addresses shall be displayed numerically in numbers at least 4” in height and be of a contrasting color with the background they are attached to.

Subsection 920.05 – External Solid Fuel-Fired Heating Devices.

Subd. 1. Purpose. This Subsection is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Blue Earth by regulating the air pollution and fire hazards of external solid fuel-fired heating devices.

Subd. 2. Applicability. This subsection applies to all outdoor fire boilers within the City of Blue Earth.

2.1 This subsection does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

2.2 This subsection does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human habitation.

2.3 This subsection does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

2.4 This subsection does not apply to campfires; a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

Subd. 3. Definitions.

3.1 “External solid fuel-fired heating device” means a device designed for external solid fuel combustion so that usable heat is derived for the interior of a building and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood burning fireplaces or wood stoves in the interior of a dwelling.

3.2 “Stacks or chimneys” means any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially the part of such a structure extending above a roof.

3.3 “Person” means an individual, partnership, corporation, company or other association.
Subd. 4. Requirements. No external solid fuel-fired heating devices designed and intended and/or used, for the purpose of heating the principal structure or another accessory structure on the premises are allowed to be installed within the City of Blue Earth.

Subd. 5. Non-conforming use.

5.1 At such time as the useful life of a non-conforming wood-burning unit or solid fuel-fired heating device has elapsed or would need to be repaired to function properly, the unit can not be replaced and must be abandoned, not used, and removed from the property immediately.

5.2 No pre-existing, non-conforming wood-burning unit or solid fuel-fired heating device shall hereafter be extended, enlarged or expanded.

5.3 The lawful use of any existing wood-burning unit or solid fuel-fired heating device existing at the time of the effective date of this ordinance may be continued, although such use may not conform to the provisions of this ordinance.

Subd. 6. Enforcement. The City Building Official, Zoning Administrator, or other designated officials shall enforce the provisions of this ordinance.

Subd. 7. Penalty. Any person convicted of violating a provision of this ordinance is guilty of a misdemeanor.
CHAPTER 10

LAND USE REGULATION (ZONING)

Section 1000 - General Provisions

1000.01. Title. This Chapter shall be known as the Zoning Ordinance of the City of Blue Earth, Minnesota and shall include both text and maps.

1000.02. Intent and Purpose. This Chapter is adopted for the purpose of protecting the public health, safety, morals, comfort, convenience and general welfare of the citizens of Blue Earth.

1000.03. Legal Authority. This Chapter is enacted pursuant to the City’s general police powers, as well as specific statutory authority and State mandated regulatory rules.

1000.04. Supremacy.

Subd. 1. Minimum Requirements. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare of the citizens of the City of Blue Earth.

Subd. 2. Comparable Laws. Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Subd. 3. Provisions of the City Code. When any condition imposed by any provision of this Chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any other provision of this City Code or other City regulation, the more restrictive conditions shall prevail.

Subd. 4. Private Agreements. This Chapter is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the City by private declaration or agreement, but where the provisions of this Chapter are more restrictive than any such easement, restriction, covenant, or provision of any private agreement, the provisions of this Chapter shall prevail.

Subd. 5. General Rule. Except as specifically provided in this Chapter, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Chapter.

1000.05. Remedies.

Subd. 1. Application to City Personnel. The failure of any officer or employee of the City to perform any official duty imposed by this Chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
**Subd. 2. Equitable Release.** In the event of a violation or the threatened violation of any provision of this Chapter, or any provision or condition of a permit issued pursuant to this Chapter, the City in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

**1000.06. Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

**Subd. 1. Accessory Use of Structure.** The phrase “accessory use of structure” means a use or structure or portion of a structure subordinate to and serving the principal use structure on the same lot and customarily incidental thereto.

**Subd. 2. Administrator.** The term “administrator” means the duly appointed person charged with enforcement of this Chapter.

**Subd. 3. Agricultural Use.** The phrase “agricultural use” means the use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

A. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers;
B. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits, and mink;
C. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

**Subd. 4. Alley.** The term “alley” means a public right-of-way which affords a secondary means of access to abutting property.

**Subd. 5. Apartment.** The term “apartment” means a room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any units in buildings with more than two (2) dwelling units.

**Subd. 6. Auto or Motor Vehicle Reduction Yard.** The phrases “auto” or “motor vehicle reduction yard” mean a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also Junk Yard.)

**Subd. 7. Basement.** The term “basement” means a portion of a building located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

**Subd. 8. Boardinghouse (Rooming or Lodging House).** The term “boardinghouse” means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed twenty (20) persons.

**Subd. 9. Building.** The term “building” means any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

**Subd. 10. Building Line.** The phrase “building line” means a line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

**Subd. 11. Building Height.** The phrase “building height” means the vertical distance to be
measured from the grade of a building line to the top of the cornice of a flat roof, to the deck line of
a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost
point on a round or other arch-type roof, to the mean distance of the highest gable on a pitched or hip
roof.

Subd. 12. Building Setback. The phrase “building setback” means the minimum horizontal
distance between the furthest protruding part of the building and a lot line.

Subd. 13. Business. The term “business” means any occupation, employment or enterprise
wherein merchandise is exhibited or sold, or where services are offered for compensation.

Subd. 14. Carport. The term “carport” means an automobile shelter having one (1) or more
sides open.

Subd. 15. Church. The term “church” means a building, together with its accessory
buildings and uses, where persons regularly assemble for religious worship and which building,
together with its accessory buildings and uses, is maintained and controlled by a religious body
organized to sustain public worship.

Subd. 16. Comprehensive Plan or “Policies Plan”. The phrase “comprehensive plan”
means a compilation of goals, policy statements, standards, programs and maps for guiding the
physical, social and economic development, both public and private, of the municipality and its
environs, as defined in the Minnesota Municipal Planning Act, and includes any unit or part of such
plan separately adopted and any amendment to such plan or parts thereof.

Subd. 17. City Water and Sewer Systems. The phrase “city water and sewer systems”
means utilities systems serving a group of buildings, lot, or any area of the City, with the design and
construction of such utility systems as approved by the City and the State of Minnesota.

Subd. 18. Conditional Use. The phrase “conditional use” means a use classified as condi-
tional which generally may be appropriate or desirable in a specified zone, but requires special
approval because if not carefully located or designed it may create special problems such as
excessive height or bulk or abnormal traffic congestion.

Subd. 19. Curb Level. The phrase “curb level” means the grade elevation established by the
governing body of the curb in front of the center of the building. Where no curb level has been
established the engineering staff shall determine a curb level or its equivalent for the purpose of this
Chapter.

Subd. 20. Drive-In. The term “drive-in” means any use where products and/or services are
provided to the customer under conditions where the customer does not have to leave the car or
where fast service to the automobile occupants is a service offered regardless of whether service is
also provided within a building.

Subd. 21. Dwelling Unit. The phrase “dwelling unit” means a residential building or portion
thereof intended for occupancy by a single family but not including hotels, motels, boarding or
rooming houses or tourist homes.

Subd. 22. Dwelling Attached. The phrase “dwelling attached” means a dwelling which is
joined to another dwelling at one or more sides by a party wall or walls.

Subd. 23. Dwelling Detached. The phrase “dwelling detached” means a dwelling which is
entirely surrounded by open space on the same lot.

Subd. 24. Easement. The term “easement” means a grant by a property owner for the use of
a strip of land by the public or any person for any specific purpose or purposes.

Subd. 25. Exterior Storage (Includes Open Storage). The phrase “exterior storage”
means the storage of goods, materials, equipment, manufactured products and similar items not fully
Subd. 26. Extraction Area. The phrase “extraction area” means any non-agricultural artificial excavation of earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth.

Subd. 27. Family. The term “family” means an individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

Subd. 28. Feed Lot. The phrase “feed lot” means the place of confined feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

Subd. 29. Floor Area. The phrase “floor area” means the sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

Subd. 30. Floor Area Ratio. The phrase “floor area ratio” means the numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.

Subd. 31. Floor Plan - General. The phrase “floor plan - general” means a graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed in construction plans.

Subd. 32. Frontage. The term “frontage” means that boundary of a lot which abuts an existing or dedicated public street.

Subd. 33. Garage - Private. The phrase Garage – Private means (1) an accessory building or portion of the principal building upon any lot where the primary building is a private dwelling which is intended for and used to store private passenger vehicles of the family or families resident upon the premises or (2) a private storage building built as the primary structure upon a single lot or part of a lot adjacent to and abutting a lot owned by the same person(s) that has built upon it a private dwelling. The adjacent and abutting lot shall border the primary dwelling lot for at least 50 feet.

Subd. 34. Home Occupation. The phrase “home occupation” means any gainful occupation or profession engaged in by the occupant of a dwelling unit and not in an accessory building provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the structure. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barber shops, beauty shops, tourist homes, restaurants, or similar uses.

Subd. 35. Hotel. The term “hotel” means a building which provides a common entrance, lobby, halls and stairway and in which twenty (20) or more people are, for compensation, lodged with or without meals.

Subd. 36. Irrigation System. The phrase “irrigation system” means any structure or equip-
ment, mechanical or otherwise, used to supply water to cultivated fields or supplement normal rainfall, including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds and reservoirs.

**Subd. 37. Junk Yard.** The phrase “junk yard” means an open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

**Subd. 38. Landscaping.** The term “landscaping” means plantings such as trees, grass, and shrubs.

**Subd. 39. Lodging Room.** The phrase “lodging room” means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.

**Subd. 40. Lot.** The term “lot” means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

**Subd. 41. Lot of Record.** The phrase “lot of record” means any lot which is one unit of a plat heretofore duly approved and filed, or a Registered Land Survey that has been recorded in the office of the County Recorder of Faribault County, Minnesota, prior to the effective date of this Code.

**Subd. 42. Lot Area.** The phrase “lot area” means the area of a lot in a horizontal plane bounded by the lot lines.

**Subd. 43. Lot - Corner.** The phrase “lot - corner” means a lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**Subd. 44. Lot Depth.** The phrase “lot depth” means the mean horizontal distance between the front lot line and the rear lot line of a lot.

**Subd. 45. Lot Line.** The phrase “lot line” means the property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this Chapter.

**Subd. 46. Lot Line - Front.** The phrase “lot line - front” means that boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the Council.

**Subd. 47. Lot Line - Rear.** The phrase “lot line - rear” means that boundary of a lot which is opposite the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

**Subd. 48. Lot Line - Side.** The phrase “lot line - side” means any boundary of a lot which is not a front lot line or a rear lot line.

**Subd. 49. Lot - Substandard.** The phrase “lot - substandard” means a lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this Code which does not meet the minimum standards of this Chapter.

**Subd. 50. Lot - Through.** The phrase “lot - through” means a lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through
lot, both street lines shall be front lot lines for applying this chapter.

Subd. 51. Lot Width. The phrase “lot width” means the maximum horizontal distance between the side lot lines of a lot at the setback line.

Subd. 52. Mining. The term “mining” means the extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site without processing. The only exclusion from this definition shall be removal of materials associated with construction of a building provided such removal is an approved item in the building permit.

Subd. 53. Manufactured Homes. The term “manufactured home” means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; A manufactured home shall be distinct from other one (1) family dwelling units.

Subd. 54. Manufactured Home Stand. The phrase “manufactured home stand” means the part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures, or additions.

Subd. 55. Modular Home. The phrase “modular home” means a non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A module home shall be congruous to a one (1) family dwelling.

Subd. 56. Motel (Tourist Court). The term “motel” means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

Subd. 57. Multiple Residence (Apartment Building). The phrase “multiple residence” means three (3) or more dwelling units in one (1) structure.

Subd. 58. Nursery, Landscape. The phrase “nursery, landscape” means a business growing and selling trees, flowering and decorative plants, and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

Subd. 59. Nursing Home. The phrase “nursing home” means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statutes, Section 144.50.

Subd. 60. Official Map. The phrase “official map” means the map established by the Council, in accordance with State statutes, showing streets, highways, and parks both existing and proposed.

Subd. 61. Off-Street Loading Space. The phrase “off-street loading space” means a space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one (1) vehicle of the type typically used in the particular business.

Subd. 62. Open Sales Lot (Exterior Storage). The phrase “open sales lot” (exterior storage) means any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.
Subd. 63. Parking Space. The phrase “parking space” means a suitably surfaced and permanently maintained area on privately-owned property either within or outside of a building of sufficient size to store one (1) standard automobile.

Subd. 64. Pedestrian Way. The phrase “pedestrian way” means a public or private right-of-way across or within a block, to be used by pedestrians.

Subd. 65. Prefabricated Home. The phrase “prefabricated home” means a non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site. A prefabricated home shall be congruous to a single family dwelling.

Subd. 66. Principal Structure or Use. The phrase “principal structure or use” means one which determines the predominant use as contrasted to accessory use or structure.

Subd. 67. Property Line. The phrase “property line” means the legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

Subd. 68. Public Land. The phrase “public land” means any land owned or operated by City, School District, County, State or other governmental units.

Subd. 69. Recreation - Public. The phrase “recreation - public” includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

Subd. 70. Recreation - Commercial. The phrase “recreation - commercial” includes all uses such as bowling alleys, driving ranges, and movie theaters that are privately-owned and operated with the intention of earning a profit by providing entertainment for the public.

Subd. 71. Recreation Equipment. The phrase “recreation equipment” means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty (20) feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses.

Subd. 72. Reclamation Land. The phrase “reclamation land” means the improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

Subd. 73. Registered Land Survey. The phrase “registered land survey” means a survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.

Subd. 74. Sign. The term “sign” means a display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business.

Subd. 75. Sign - Advertising. The phrase “sign - advertising” means a sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises, where such sign is located or to which it is attached.

Subd. 76. Street. The term “street” means a public right-of-way which affords a primary means of access to abutting property, and shall also include avenue, highway, road or way.

Subd. 77. Street - Collector. The phrase “street - collector” means a street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.

Subd. 78. Street - Major or Thoroughfare. The phrase “street - major” or term “thoroughfare” mean a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Subd. 79. Street - Local. The phrase “street - local” means a street intended to serve
primarily as an access to abutting properties.

**Subd. 80. Street Pavement.** The phrase “street pavement” means the wearing or exposed surface of the roadway used by vehicular traffic.

**Subd. 81. Street Width.** The phrase “street width” means the width of the right-of-way, measured at right angles to the centerline of the street.

**Subd. 82. Story.** The term “story” means that portion of building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

**Subd. 83. Structure.** The term “structure” means anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

**Subd. 84. Structural Alteration.** The phrase “structural alteration” means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**Subd. 85. Subdivision.** The term “subdivision” means the dividing of any parcel of land into two (2) or more parcels.

A. Platted Subdivision - If any resultant parcel is less than five (5) acres and less than 300 feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, subsequent parcels must be platted in accordance with the terms and procedure of the Subdivision Regulations.

B. Unplatted Subdivision - A division of any parcel of land into two (2) or more parts wherein all parts are at least five (5) acres and at least 300 feet in width and where no new road is involved. These do not require platting.

**Subd. 86. Townhouse.** The term “townhouse” means a single family building attached by party walls with other single family buildings, and oriented so that all exits open to the outside.

**Subd. 87. Use.** The term “use” means the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

**Subd. 88. Use - Accessory.** The phrase “use - accessory” means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**Subd. 89. Use - Non-Conforming.** The phrase “use - non-conforming” means the use of land, buildings or structures legally existing at the effective date of this Chapter which does not comply with all the regulations of this Chapter or any amendments hereto governing the zoning district in which such use is located.

**Subd. 90. Use - Permitted.** The phrase “use - permitted” means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

**Subd. 91. Use - Principal.** The phrase “use - principal” means the main use of land or buildings as distinguished from subordinate or accessory uses. A “principal use” may be either permitted or conditional.

**Subd. 92. Use - Conditional.** See Conditional Use.

**Subd. 93. Variance.** The term “variance” means a modification or variation of the provisions of this Chapter where it is determined that special and/or unique circumstances relating to a specific lot make compliance with the provisions of this Chapter substantially impractical and a variance from the requirements of this Chapter will not:

(a) alter the essential character of the locality of the parcel/lot, and
the proposed use will remain in harmony with the intent and purpose of this Chapter.

**Subd. 94. Wind Energy Conversion Systems (W.E.C.S.).** The phrase “wind energy conservation systems” means any device that converts wind power to another form of energy such as electricity or heat (also referred to by such common names as wind charger, wind turbine, and wind mill).

**Subd. 95. Yard.** The term “yard” means a required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

**Subd. 96. Yard - Rear.** The phrase “yard - rear” means the portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

**Subd. 97. Yard - Side.** The phrase “yard - side” means the yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

**Subd. 98. Yard - Front.** The phrase “yard, front” means the yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.

**Subd. 99. Zoning Amendment.** The phrase “zoning amendment” means a change authorized by the governing body either in the allowed use within a district or in the boundaries of a district.

**Subd. 100. Zoning District.** The phrase “zoning district” means an area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

**Subd. 101. Zoning Variance Special/Unique Circumstances.** Circumstances that relate to the condition of a specific lot for purposes of a variance are “unique” if the lot/parcel conditions are:

(a) more narrow, more shallow or more of an odd shape as platted as of October 1, 2011;

(b) have an exceptional topographic feature or water condition; or

(c) have a significant tree or stand of trees of a size where the tree trunks are greater than 12 inches in diameter which interferes with the ability to meet the setback requirements.

**Subd. 102. Zoning Variance Essential Character.** The phrase Zoning Variance Essential Character means the character of a specific platted block or subdivision within the City. For purposes of a variance, a proposed use impairs the essential character of a platted block or subdivision within the City if:

(a) the use impairs an adequate supply of light and/or airflow to adjacent platted lots;

(b) the use causes an unreasonable increase in the congestion of traffic upon the existing public streets;

(c) the use increases the danger of fires(s) within the block or subdivision;

(d) the use endangers the safety of the public within the block or subdivision; or

(e) the use unreasonably diminishes the property values of the other lots or parcels within the block or subdivision.
Section 1010 - Administration

1010.01. Enforcing Officer. The Council shall appoint a Zoning Administrator whose term of office shall terminate at the pleasure of the Council. The Zoning Administrator shall enforce this Chapter and shall perform the following duties.

   Subd. 1. Applications. Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
   Subd. 2. Actions. Institute in the name of the City any appropriate actions or proceedings against a violator as provided for.
   Subd. 3. Ex-Officio Member of Planning Commission. Serve as an ex officio non-voting member of the Planning Commission.

1010.02. Board of Adjustment and Appeals.

   Subd. 1. Composition. The Council shall serve as the Board of Adjustment and Appeals.
   Subd. 2. Authority. The Board of Adjustment and Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Planning Commission or an administrative official charged with enforcing this Chapter. Such appeal may be taken by any person aggrieved or by any officer, department, board, commission or bureau of a town, municipality, county or state.
   Subd. 3. Power of Review. The Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of such Board shall be final subject to the right to appeal to District Court.

1010.03. Planning Commission.

   Subd. 1. Variances. The Planning Commission shall review, discuss, advise and recommend action to the City Council for all variance and conditional use permit applications received by the City. The recommendations made by the Planning Commission for both Variances and Conditional Use Permits shall consider and address the definitions set forth in Subsection 1000.06, the conditions set forth in Subsection 1010.09 and the district regulations and performance standards set forth in this Chapter as well as State law.
   Subd. 2. Hearings. All hearings of the Planning Commission shall be held within such time and upon such notice to interested parties as provided for in State Statutes. The Planning Commission shall make its recommendations to the City Council in a timely fashion so that action can be taken upon the application before the City Council in the timely fashion as required by State Law.

1010.04. Zoning Amendments.
Subd. 1. Criteria for Granting Zoning Amendments. The Council may adopt amendments to this Chapter and the zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan or changes in conditions in the City. A two-thirds vote of the Council is required for any amendment to this Chapter to become effective.

Subd. 2. Procedure.

A. An amendment to this Chapter or the zoning map may be initiated by the Council, the Planning Commission or by petition of affected property owners. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Council until it has received the Planning Commission recommendations or until sixty (60) days have elapsed from the date of reference of the amendment without a report of the Planning Commission. Individuals wishing to initiate an amendment to this Chapter shall fill out a zoning amendment application form and submit it to the Zoning Administrator.

B. A public hearing on the rezoning application shall be held by the Planning Commission within thirty (30) days after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the Council at least ten (10) days prior to the public hearing. The Clerk-Administrator shall mail the same notice to the owners of the property within 350 feet of the outside of the land proposed to be rezoned. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Clerk-Administrator and be made part of the records of the proceedings. The notice shall include the description of the land and the proposed changes in zoning. Failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. The Planning Commission shall make its report to the Council at its next regular meeting following the hearing recommending approval, disapproval or modified approval of the proposed amendment.

C. The Council must take action on the application within sixty (60) days following of receipt of the application. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to this Chapter and the zoning map.

Subd. 3. Zoning and the Comprehensive Plan. Any change in zoning granted by the Council shall automatically amend the Comprehensive Plan in accordance with said zoning change.

1010.05. Fees. The City may charge fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control of this Chapter or an application for a permit or other approval required under the official controls established by this Chapter. Such fees shall be set by ordinance of the City Council. A schedule of fees is contained in Appendix H to the City Code.

1010.06. Existing Lots.

Subd. 1. Single Family Use Allowed. A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the Faribault County Recorder or Registrar of Titles, on or before the date of adoption of this Chapter may be used for single family detached dwelling purposes provided the area and width thereof are within 60% of the minimum requirements of this Chapter and provided it can be demonstrated that safe and adequate sewage treatment systems
can be installed to serve such permanent dwelling.

Subd. 2. Subdividing Existing Lots. No lot or parcel of land in a residential district shall be split or subdivided so as to render the original lot non-conforming subject to the provisions of this Chapter. No building permit shall be issued on a lot so conveyed.

1010.07. Non-Conforming Uses and Structures. Any structure or use existing upon the effective date of this Chapter and which does not conform to the provisions of this Chapter may be continued for a certain period of time subject to the following conditions:

**Subd. 1. Expansion.** No such use shall be expanded or enlarged except in conformity with the provisions of this Chapter.

**Subd. 2. Discontinuance of Use.** If a non-conforming use is discontinued for a period of more than one (1) year, further use of the structures or property shall conform to this Chapter.

**Subd. 3. Destruction of Structure.** If a non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent (50%) of its fair market value and no building permit has been applied for within 180 days of when the property is damaged, a future structure on the site shall conform to this Chapter. In the case a permit is applied for within 180 days, the City may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

**Subd. 4. Maintenance and Repair.** Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion or otherwise as described in 1010.07 Subd. 1, 2, and 3.

1010.08. Conditional Use Permits.

**Subd. 1. Criteria for Granting Conditional Use Permits.** In granting a conditional use permit, the Planning Commission shall consider the advice and recommendations of the Zoning Administrator and the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the Planning Commission shall make the following findings where applicable.

A. The use will not create an excessive burden of existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

B. The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

C. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

D. The use in the opinion of the Commission is reasonably related to the overall needs of the City and to the existing land use.

E. The use is consistent with the purposes of this Chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.

F. The use is not in conflict with the Comprehensive Plan of the City.

G. The use will not cause traffic hazard or congestion.

H. Existing businesses nearby will not be adversely affected because of curtailment of
customer trade brought about by intrusion of noise, glare or general unsightliness.

**Subd. 2. Additional Conditions.**

A. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area of the City as a whole. These conditions may include, but are not limited, to the following:

1. Increasing the required lot size or yard dimension.
2. Limiting the height, size or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location or lighting of signs.
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.

B. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the Commission, time limits, review dates, and such other information as may be appropriate.

**Subd. 3. Procedure.**

A. The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use application form.

B. The Zoning Administrator shall refer the application to the Planning Commission for review.

C. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City at least ten (10) days prior to the hearing. Notice of the hearing shall also be mailed to owners of property located within 350 feet of the outside of the land to which the conditional use will be applicable. The notice shall include a description of the land and the proposed conditional use and a statement that all appeals from the Planning Commission decision must be filed within fourteen (14) days. A copy of the notice and a list of the owners to which it was sent shall be attested to by the Clerk-Administrator and be made part of the record of the proceedings. Failure to give mailed notice to individual property owners shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

D. The Planning Commission shall conduct a hearing and make a decision not later than sixty (60) days after the applicant has submitted the application. If it grants the conditional use permit, the Commission may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

E. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. The amended conditional use permit application shall include requests for changes in conditions, and as otherwise described in this
Chapter.

F. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of conditional use permit may be granted at the discretion of the Commission.

G. In the event that the applicant violates any of the conditions set forth in this subsection, the Commission shall have the authority to revoke the conditional use permit.

Subd. 4. Filing of Permit. A certified copy of any conditional use permit shall be filed with the County Recorder or Registrar of Titles of Faribault County, Minnesota for record. The conditional use permit shall include the legal description of the property included.

Subd. 5. Appeals. Appeals to the City Council of a decision by the Planning Commission must be filed in writing at the office of the City Clerk within fourteen (14) days of the decision.

1010.09. Variances.

Subd. 1. Generally. The Planning Commission may grant variances for the strict application of the provisions of this Chapter and impose conditions and safeguards in the variance so granted, but no variances shall be granted unless the Planning Commission finds that:

A. That the variance is in harmony with the purposes and intent of this chapter of the Blue Earth City Code and is consistent with the comprehensive plan of the City of Blue Earth;

B. That the variance does place the property in question to use in a reasonable manner;

C. That the unique circumstances to the property which led to the variance request have not been created by the landowner; and

D. That the variance does not alter the essential character of the locality.

Subd. 2. Prohibited Uses. No variance shall be granted to allow any use that is not permitted under this Chapter for property in the zone where the applicant’s land is located.

Subd. 3. Applications. Applications for variances shall be made by the owner or owners of the property and shall be filed with the Zoning Administrator. All applications shall be accompanied by the administrative fee as set in the City’s fee schedule and shall include any and all information required by the application form, the Zoning Administrator or the Planning Commission.

Subd. 4. Planning Commission. The Planning Commission may hold one (1) or more hearings on the application as it deems necessary or required by law. If a public hearing is not held, a notice describing the property and the request must be mailed to the adjacent property owners at least ten (10) days before the Planning Commission meeting. Failure of the property owners to receive the notice shall not invalidate the proceedings.

Subd. 5. Issuance. In considering applications for variance under this Chapter, the Planning Commission shall consider the advice and recommendations of the Zoning Administrator and the standards set out in Subdivision 1 of this Subsection and may grant or deny the variance and may impose conditions and safeguards therein.

Subd. 6. Denial. An application for a variance may be denied by motion of the Planning Commission and such motion shall constitute a finding and determination by the Planning Commission that the conditions required for approval do not exist.
Section 1020 - District Regulations

1020.01. District Boundaries. Where uncertainty exists as to the boundaries, the following rules shall apply.

Subd. 1. Streets, Highways, Alleys, Railroads. Boundaries indicated as approximately following the center lines of streets, highways, alleys or railroad lines shall be considered to follow such center lines.

Subd. 2. Plats. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

Subd. 3. Shore Line. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in event of change in shore line shall be construed as varying with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or bodies of water shall be construed to follow such center lines.

Subd. 4. City Limits. Boundaries indicated as approximately following the City limits shall be construed as following such City limits.

Subd. 5. Lot Division. Where a district boundary line divides a lot which was in single ownership at the time this Code is enacted, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be interpreted by the City Council upon request of the owner.

Subd. 6. Interpretation of Zoning Chapter and Map. Where the street or lot layout actually on the ground, or as recorded, differs for the street and lot lines shown on the Official Zoning Map, the Board of Adjustments and Appeals, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this Chapter. In case of any question as to the location of any boundary line between zoning districts or where there is uncertainty as to the meaning and intent of a textual provision of this Chapter, a request for interpretation of the Zoning Map or the textual provision in question may be made to the Board of Adjustments and Appeals and a determination shall be made by said Board.

1020.02. Districts for Annexed and Unzoned Areas.

Subd. 1. Annexed Areas. Areas annexed to the City after October 1, 2011 shall be considered to be “R-2 Suburban Residential” until placed wholly or partly in another district by amendment as provided for in this Chapter.

Subd. 2. Unzoned Areas. Areas not included in any district shall be considered reserved for public use and purposes.

1020.03. District Regulations.

Subd. 1. Minimum. The regulations of this Chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as provided in this Chapter.

Subd. 2. Conformity.

A. No building, structure or land shall be used or occupied, and no building structure
or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations specified in this Chapter for the district in which it is located.

B. No building or other structure shall hereinafter be erected or altered: to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein required; or in any other manner contrary to the provisions of this Chapter.

**Subd. 3. Yards and Open Spaces.**

A. No part of a yard, or other open space, or off street parking required about or in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space, off-street parking or landing space similarly required for any other building.

B. No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth in this Chapter. Yards or lots created after the enactment of this Code shall meet at least the minimum requirements established by this Chapter.

**1020.04. Opt-Out Of Minnesota Statutes, Section 462.3593.** Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Blue Earth opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.
Section 1030 - Zoning Districts

1030.01. Establishment of Districts.

Subd. 1. Purpose. The zoning districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan and are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare.

Subd. 2. Zoning Districts and Map.
A. For the purposes of this Chapter the City is hereby divided into the following Zoning Districts.

1. AG Agricultural Preservation.
2. R-1 Residential.
6. LI Limited Industry.
7. FP Flood Plain.
8. S Shoreland.
9. GI General Industrial.
10. CBD Central Business District.

B. The location and boundaries of the districts established by this Chapter are set forth on the Zoning Map which is hereby incorporated as part of this Chapter. It shall be the responsibility of the Zoning Administrator to maintain and update this Map and the amendments to such Map shall be recorded on such Map within thirty (30) days after official adoption of zoning amendments.

1030.02. Agricultural Preservation District (AG).

Subd. 1. Purpose. Agricultural Preservation areas are established for the purpose of preserving, promoting, maintaining and enhancing the use of land for commercial agricultural purposes, to prevent scattered and leap-frog non-farm growth, to protect expenditures for such public services as roads and road maintenance, police and fire protection, and schools.

Subd. 2. Permitted Uses.
A. Agricultural land uses.
B. Farmstead residences.
C. Single family residences.
D. Forestry and nurseries.
E. Seasonal produce stands.
F. Essential services - telephone, telegraph, and power transmission lines and necessary appurtenant structures.
G. Public recreation.
H. Historic sites and area.

Subd. 3. Accessory Uses. Any incidental machinery, structure, or buildings necessary to the conduct of agricultural operations or other permitted uses.
Subd. 4. Conditional Uses. The Council may grant conditional use permits for any conditional uses that are in conformance with Subsection 1010.07 of this Chapter.

Subd. 5. Performance Standards.

A. Height Regulations.

1. The maximum height of all buildings shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet.

2. This height limitation shall not apply to grain elevators, barns, silos, windmills, elevator lags, cooling towers, water towers, chimneys and smokestacks, church spires, electric transmission lines or radio or television towers.

B. Front Yard Regulations.  

1. Required Setback Distance from:

<table>
<thead>
<tr>
<th>Road Right of Way</th>
<th>Road Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>70</td>
<td>State Highway</td>
</tr>
<tr>
<td>50</td>
<td>County Road</td>
</tr>
<tr>
<td>30</td>
<td>Local Street</td>
</tr>
</tbody>
</table>

2. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

C. Side Yard Regulations. There shall be a side yard width of not less than twenty (20) feet on each side of the building.

D. Rear Yard Regulations.

1. No rear yard regulation shall be required for agricultural buildings.

2. For other buildings there shall be a rear yard having a depth of not less than forty (40) feet.

E. Lot Area Regulations.

1. For farmstead residences - none.

2. For non-farm dwellings - five (5) acres.

F. Lot Width and Depth Regulations. Every lot or plat of land on which one family dwelling is constructed shall have a minimum width of not less than 100 feet and a minimum depth of not less than 150 feet.

G. General Regulations. Additional requirements for parking, signs, sewage systems, and other regulations are set forth in Section 1040 of this Chapter.

1030.03. Residential Districts (R-1).

Subd. 1. Purpose. The major purpose of this district is to allow the continuation of existing residential development and infilling of existing lots in the older residential areas of the City where central sewer and water systems are available.

Subd. 2. Permitted Uses.

A. Single family detached residences.

B. Churches.

C. Community center.

D. Nurseries, excluding greenhouses.

E. Public recreation.

F. Essential services - telephone, power distribution poles, lines and necessary
apprtenant equipment and structures such as transformers, unit substations and equipment houses.

G. Schools, private and public.
H. Home occupations as defined in Subsection 1000.06, Subd. 34 of this Chapter.
I. Condominiums and townhome groupings of 8 units or less.
J. Apartment complexes.
K. Duplexes.
L. Home based licensed day care operations.

Subd. 3. Accessory Uses.
A. Open off-street parking spaces meeting the provisions of Subsection 1040.07 of this Chapter.
B. Garages meeting the provisions of Subsection 1040.31 of this Chapter.
C. Fences and screening meeting the requirements of Subsection 1040.04 of this Chapter.
D. Decorative landscape features such as statues, rocks, reflecting ponds and benches.
E. Recreation equipment for personal use.

Subd. 4. Conditional Uses. The City Council may grant conditional use permits for any conditional uses that are in conformance with Section 1010.07 of this Chapter.

Subd. 5. Performance Standards.
A. Height Regulations. No buildings hereafter erected shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
B. Front Yard Requirements.
   1. Each lot in the R-1 Residential District shall have a minimum front yard of twenty (20) feet. In the event other dwellings already erected to the side of the proposed dwelling have been set back a distance greater than twenty (20) feet, the front yard requirement for the proposed dwelling shall conform to the average set back of the adjacent dwellings.
   2. Corner Lots. When a lot is adjacent to more than one public street, the front line is the shortest side for setback purposes.
C. Side Yard Requirements. For every dwelling hereafter erected or structurally altered that does not exceed one and one-half (1 1/2) stories, each side yard shall have a width of not less than five (5) feet. For every such dwelling that has two (2) stories, each side yard shall have a width of not less than eight (8) feet. For every such dwelling of two and one-half (2 ½) each side yard shall have a width of at least ten (10) feet. When the side yard of a dwelling is adjacent to a public street, the setback is required to be a minimum of twenty (20) feet.
D. Rear Yard Regulations. For all accessory structures and garages there shall be a rear yard of not less than five (5) feet, unless the accessory structure opens onto a public alley, in which case there shall be a rear yard setback of not less than twenty (20) feet. For all other buildings there shall be a rear yard having a depth of not less than thirty (30) feet.
E. Lot Area Regulations. The minimum lot size shall be 3600 square feet.
F. Lot Width and Depth Regulations. The minimum lot width shall be fifty (50) feet and the minimum lot depth shall be sixty (60) feet.
G. General Regulations. Additional requirements for parking, signs, exterior storage, and other use regulations are set forth in Section 1040 of this Chapter.

1030.04. Suburban Residential Districts (R-2).
Subd. 1. Purpose. The major purpose of this district is to allow for a medium density residential development in outlying areas of the City which are served by central sewer and water systems.

Subd. 2. Permitted Uses.
A. Single family detached residences.
B. Public recreation.
C. Essential services as allowed in R-1 districts.
D. Home occupations as defined in the provisions of Subsection 1000.06, Subd. 34 of this Chapter.
E. Condominium and/or townhome groupings of 4 units or less.
F. Home based licensed daycare operations.

Subd. 3. Accessory Uses.
A. Open off street parking meeting the provisions of Subsection 1040.07 of this Chapter.
B. Garages meeting the requirements of Subsection 1040.31 of this Chapter.
C. Fences meeting the requirements of Subsection 1040.04 of this Chapter.
D. Decorative landscaping as allowed in R-1 Districts.
E. Recreation equipment.

Subd. 4. Conditional Uses. The Council may grant conditional use permits for any conditional uses that are in conformance with Subsection 1010.07 of this Chapter.

Subd. 5. Performance Standards.
A. Height Regulations. No building hereafter erected shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
B. Front Yard Regulations.
1. Required setback distance from:

<table>
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<tr>
<td>30</td>
<td>Local Street</td>
</tr>
</tbody>
</table>

2. When a lot is adjacent to more than one public street, the front line is the shortest side for setback purposes.
C. Side Yard Regulations. There shall be a minimum side yard setback of fifteen (15) feet.
D. Rear Yard Regulations. For all buildings and garages, there shall be a rear yard having a depth of not less than thirty (30) feet.
E. Lot Area Regulations. The minimum lot size shall be 8500 square feet.
F. Lot Width and Depth Regulations. The minimum lot width shall be seventy-five (75) feet and the minimum lot depth shall be 100 feet.
G. General Regulations. Additional requirements for parking, garages, accessory buildings, signs and other regulations set forth in Section 1040 of this Chapter.

1030.05. General Business Districts (B-1).

Subd. 1. Purpose. The General Business District is intended to provide a district that will allow general retail and commercial uses to serve existing population.
Subd. 2. Permitted Uses.
   A. Commercial recreation.
   B. Hospitals.
   C. Hotel and motel.
   D. Offices and medical centers.
   E. Retail trade.
   F. Government buildings.
   G. Wholesale business.
   H. Indoor recreation, such as movie theaters.
   I. Restaurants, cafes and supper clubs.
   J. Passenger transportation terminal.
   K. Drive-in business.
   L. Clubs, lodges.
   M. Automobile service stations.
   N. Essential services - utility lines and necessary appurtenant structures.
   O. Off-sale liquor establishment.

Subd. 3. Accessory Uses.
   A. Landscaping.
   B. Parking facilities.
   C. Fences.
   D. Any incidental repair, processing and storage necessary to conduct a principal use but not exceeding thirty percent (30%) of the floor space of the principal building.

Subd. 4. Conditional Uses. The Council may grant conditional use permits for any conditional uses that are in conformance with Section 1010.07 of this Chapter.

Subd. 5. Performance Standards.
   A. Height Regulations. No building shall hereafter be erected or structurally altered to exceed two (2) stories or thirty (30) feet in height.
   B. Front Yard Regulations.
      1. There shall be a front yard having a depth of not less than twenty-five (25) feet except in a block where two (2) or more structures have been built facing the same street, the setback for the remaining lots in that block fronting on the same street shall be determined by the average setback of existing buildings.
      2. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.
   C. Side Yard Regulations. There shall be no minimum side yard requirements except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.
   D. Rear Yard Regulations.
      1. There shall be a minimum rear yard of thirty-five (35) feet.
      2. No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residence or Agricultural District.
   E. Screening and Fencing. The City may require the screening or fencing of commercial uses, to prevent visual blight, especially on side and rear yards which face Residential or Agricultural Districts.
F. General Regulations. Requirements for signs, parking, shopping centers, and other regulations are set forth in Section 1040 of this Chapter.

1030.06. Small Business and Industry Districts (SBI).

Subd. 1. Purpose. A Small Business and Industry District is established to accommodate those types of businesses that are not large industrial or commercial operations in nature but still require accessibility to the main trucking routes within the City to successfully function. To minimize unmanageable strip development, SBI Districts should only allow the type of businesses that rely upon accessible truck routes for routine delivery of consumer goods and services and/or supplies for the business in a fashion that does not pose problems of pollution, noise, vibrations and traffic obstruction to encourage retail and small industrial businesses in areas of the City relatively close to residential development.

Subd. 2. Permitted Uses.
A. Farm implement dealers.
B. Commercial recreational facilities including drive-in movie theaters, roller-rinks and health clubs.
C. Drive-in restaurants, cafes, restaurants and supper clubs.
D. Auto service stations and convenience stores.
E. Auto repair garages.
F. Auto sales lots/dealerships.
G. Funeral homes.
H. Public parks.
I. Daycare facilities.
J. Motels and hotels.
K. Offices and medical centers.
L. Hospitals.
M. Retail stores and tattoo parlors.
N. Government buildings.
O. Passenger transportation terminals.
P. Freight terminals and warehouses limited to 10,000 sq. ft.
Q. Wholesale businesses limited to 10,000 sq. ft.
R. Essential services – utility lines and necessary appurtenant structures.
S. Public utility buildings that do not generate power.
T. Livestock sales yards limited to 5 acres or less and not within 500 feet of a residential area.
U. Light manufacturing facilities limited to less than 10,000 sq. ft.
V. Food processing facilities limited to 10,000 sq. ft.
W. Clubs and lodges.
X. Cemeteries.
Y. Mini storage facilities limited to 1 acre or less.
Z. Construction contractor equipment and supply storage sites limited to 1 acre or less.

Subd. 3. Accessory Uses.
A. Parking lots.
B. Any other incidental repair, processing and storage necessary to conduct a permitted principal use provided that said accessory use does not exceed 50% of a parcel upon which a permitted use is located and in business.

**Subd. 4. Conditional Uses.** The City Council may grant conditional use permits for any conditional use that is in conformance with Section 1010.07 of this Chapter.

**Subd. 5. Prohibited Uses.**
- A. Distillation of bone, coal, tar, petroleum, grain or wood.
- B. Manufacturing facilities of greater than 10,000 sq. ft.
- C. Bulk storage of fuels or explosives other than for gasoline at an auto service station with gas pumps.
- D. Fertilizer manufacturing, compost or storage of processing of garbage, offal, dead animals, refuse or rancid fats.
- E. Livestock feeding lots, slaughter houses or processing plants.

**Subd. 6. Performance Standards.**
- A. SBI Districts shall be located only adjacent to existing or proposed thoroughfares so that SBI business traffic shall not be routed or directed to local residential streets not designed to handle trucking traffic.
- B. Height Regulations. No building or structure shall hereafter be erected or structurally altered to exceed fifty (50) feet in height.
- C. Front Yard Regulations.
  1. Required setback from any public roadway shall be 10 feet.
  2. In a block where two (2) or more lots have been developed facing the same street, the setback for the remaining lots shall be determined by the average setback of existing buildings or 10 feet, whichever is less.
  3. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings or uses shall project beyond the front yard of either road.
- D. Side Yard Regulations.
  1. There shall be a side yard having a width of not less than five (5) feet on each side of a building or structure.
  2. No building or structure shall be located within fifty (50) feet of any side lot line abutting a lot in a Residential District.
- E. Rear Yard Regulations.
  1. There shall be a minimum rear yard of five (5) feet.
  2. No building or structure shall be located within 50 feet of any rear lot line abutting a lot in a Residential District.
- F. Lot Width Regulations. Every lot shall have a width of not less than 75 feet abutting a public right-of-way.
- G. Screening and Fencing. The City may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face Residential Districts.
- H. General Regulations. Other regulations are set forth in Section 1040 – performance standards of this Chapter.

**1030.07. Highway Business and Limited Industry Districts (HBLI).**
Subd. 1. Purpose. A Highway Business and Limited Industry District is intended to provide for larger commercial business and enterprises and industrial uses that may suitably be located in areas of relatively close proximity to residential development. As such, businesses and industries that pose problems of air pollution, noise, vibrations, etc. will be restricted from HBLI Districts.

Subd. 2. Permitted Uses.
A. All industrial and business enterprise uses not stated as a conditional or prohibited use in this Subsection and that conform to prescribed performance standards specified in this Subsection and/or in Subsection 1040 of the City Code.
B. Transportation and freight terminals.
C. Wholesale businesses.
D. Warehouses larger than 10,000 square feet but no more than 80,000 square feet.
E. Public Utility buildings that do not generate power.
F. Public vehicle garages.
G. Auto repair garages.
H. Essential services - utility lines and necessary appurtenant structures and substations.
I. Tattoo establishments.
J. Retail shopping centers; individual stores.
K. Liquor stores.
L. Auto service stations/convenience stores.
M. Mini storage facilities larger than 1 acre.
N. Restaurants and drive in restaurants.
O. Public parks.
P. Auto sales lots, implement sales/dealerships.
Q. Construction contractor equipment, storage and repair facilities/sites of greater than 1 acre in size.

Subd. 3. Accessory Uses. Any incidental repair, processing, or storage necessary to conduct a permitted principal use shall be permitted as an accessory use.

Subd. 4. Conditional Uses. The Council may grant conditional use permits for any conditional use that is in conformance with Section 1010.07 of this Chapter.

Subd. 5. Prohibited Uses.
A. Distillation of bone, coal, tar, petroleum, grain or wood.
B. Manufacturing or bulk storage of explosives.
C. Fertilizer manufacturing, compost or storage, processing of garbage, offal, dead animals, refuse or rancid fats.

Subd. 6. Performance Standards.
A. Height Regulations. No building shall hereafter be erected or structurally altered to exceed fifty (50) feet in height.
B. Front Yard Regulations.
1. Required set-back from any road right-of-way shall be those required by Minnesota State law, rules and regulations in effect when building permit is applied for by property owner. Set-backs from local road rights-of-way shall be those front-yard set-backs required in R-1 Residential Districts within the City of Blue Earth.
2. Where a lot is located in the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No
accessory buildings shall project beyond the front yard of either road.

C. Side Yard Regulations.
   1. There shall be a side yard having a width of not less than thirty (30) feet on each side of a building.
   2. Except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.

D. Rear Yard Regulations.
   1. There shall be a minimum rear yard of thirty-five (35) feet.
   2. No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residence or Agricultural District.

E. Lot Width Regulations. Every lot shall have a width of not less than 400 feet abutting a public right-of-way.

F. Screening and Fencing. The City may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face Residential or Agricultural Districts.

G. General Regulations. Other regulations are set forth in Section 1040 of this Chapter.

1030.08. Floodplain Districts (FP). Floodplain districts and regulations are specified in Section 1060 of this Chapter.

1030.09. Shoreland Zoning Districts (S).

Subd. 1. Purpose. The major purpose of this District is to control the density and location of developments in the shorelands of the public waters of the City in order to preserve the water quality and the natural characteristics of the shorelands and public waters in the City.

Subd. 2. Water Bodies Included in the Shoreland District. The regulations of the Shoreland Zoning District in the City will apply to the east and west branch of the Blue Earth River which is classified as a Natural Environment (N-E) River.

Subd. 3. Permitted Uses.
   A. Agricultural uses, not to include feedlots.
   B. Nurseries and forestry uses, not to include greenhouses.
   C. Public recreation.
   D. Golf courses.
   E. Single family dwellings.

Subd. 4. Accessory Uses.
   A. Off-Street parking.
   B. Garages and carports.
   C. Fences.
   D. Gardening and other horticultural uses and the sale of farm products grown on the premises.

Subd. 5. Conditional Uses.
   A. Home occupations.
   B. Resorts.
   C. Churches and cemeteries.
D. Schools.
E. Commercial recreation.
F. Mobile home parks.

**Subd. 6. Prohibited Uses.** The following uses are considered incompatible to recreation use of shorelands and waters and are expressly prohibited from locating on shorelands.

A. Junkyards.
B. Sanitary landfills.
C. All industries.
D. Any processing of animals or agricultural products.
E. Mining and extraction.

**Subd. 7. Performance Standards.**

A. Height Regulations. No building shall hereafter be erected or structurally altered to exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

B. Setback Requirements.

1. Required Setback from:

<table>
<thead>
<tr>
<th>Road Right of Way</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>70</td>
<td>State Highway</td>
</tr>
<tr>
<td>50</td>
<td>County Road</td>
</tr>
<tr>
<td>40</td>
<td>Local Road</td>
</tr>
</tbody>
</table>

2. Required Setback from Shoreline (Normal high water mark) - 200 feet.*

*Boat houses, piers, and docks may be placed within the lake setback requirements, but only with a conditional use permit from the Planning Department.

C. Lot Size, Width and Depth.

1. Minimum Lot Size - five (5) acres.
2. Minimum Lot Depth - 200 feet.
3. Minimum Lot Width - 200 feet.

D. Land Height. Minimum land height above high water line at building - three (3) feet.

E. Sewage Disposal, Soil Erosion Control, and Runoff Disposal. Developments in the Shoreland Areas in the City shall also conform to the standards and guidelines in the Sewage Disposal, Soil Erosion Control, Water Runoff Disposal and other pertinent Subdivisions of Section 1040 of this Chapter.

**1030.10. General Industrial (GI).**

**Subd. 1. Purpose.** The GI District is intended to provide for general industrial and adult uses not suitable for location in areas of relative close proximity to non-industrial or residential development.

**Subd. 2. Permitted Uses.**

A. All industry not stated as a conditional or prohibited use provided said industry can conform to prescribed performance standards.
B. Transportation or freight terminal.
C. Wholesale business.
D. All business defined as “Adult Use” as defined in this Chapter.
E. Warehouse.
F. Public utility buildings that do not generate power.
G. Public vehicle garage.
H. Auto repair garage.
I. Essential Services - utility lines and necessary appurtenant structures.
J. Grain Elevators/Grain marketing and shipping terminal facilities.
K. Tattoo Establishments.

Subd. 3. Accessory Uses. Any incidental repair, processing, or storage necessary to conduct a permitted principal use shall be permitted as an accessory use except the on ground temporary storage of grains in non-permanent bunker structures which shall require a conditional use permit.

Subd. 4. Conditional Uses. The Council may grant conditional use permits for any conditional use that is in conformance with Section 1010.07 of this Chapter.

Subd. 5. Prohibited Uses.
A. Distillation of bone, coal, tar, petroleum, grain or wood.
B. Manufacturing or bulk storage of explosives.
C. Fertilizer manufacturing, compost or storage processing of garbage, offal, dead animals, refuse or rancid fats.
D. Livestock feeding yards or slaughter houses, or processing plants.

Subd. 6. General Performance Standards.
A. Front Yard Regulations.
   1. Required Setbacks from:
      
      | Road Right of Way | Road Classification |
      |-------------------|---------------------|
      | 130               | State Highway       |
      | 110               | County Road         |
      | 90                | Local Road          |

   2. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

B. Side Yard Regulations.
   1. There shall be a side yard having a width of not less than thirty (30) feet on each side of a building.
   2. Except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.

C. Rear Yard Regulations.
   1. There shall be a minimum rear yard of thirty-five (35) feet.
   2. No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any residential district.
   3. There shall be no minimum rear yard requirement for lots or parcels adjacent to a railroad right-of-way to the rear side of the parcel.

D. Lot Width Regulations. Every lot shall have a width of not less than 100 feet abutting a public right-of-way.

E. Screening and Fencing. The City may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face Residential or Agricultural Districts.
F. General Regulations. Other regulations are set forth in Section 1040 of this Chapter.

Subd. 7. Adult Use Performance Standards. Any use termed an “Adult Use” as defined in this Chapter and permitted for use under this Section shall be regulated according to the terms and conditions established in Section 1070 of the City Code.

Subsection 1030.11 – Central Business District (CBD)

Subd. 1. Purpose. The Central Business District (CBD) is intended to provide for the general retail shopping and service business development and use on the compact building lots located in the traditional and historic downtown area within the city. The applicable development regulations within the Central Business District (CBD) shall permit high density commercial and office development.

Subd. 2. Definitions.

A. Limited Light Industry. A use engaged in the manufacture predominately from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales and distribution of such products. Said facilities are limited in size to 10,000 square feet or less.

B. Limited Food Industry. A use engaged in the manufacturing and packaging of food products which require a license for the production and/or sale thereof by the State of Minnesota Departments of Health and/or Agriculture or a similar federal license. Said uses are limited to those uses which do not require the use of industrial chemicals and/or storage thereof. Said uses can include bottling establishments. All said uses are limited to a size of 10,000 square feet or less.

C. Limited Craftsman/Craftworking Establishments. A use engaged in the production of a finished product of a craftsman or artist not produced by the primary use of industrial machinery in an assembly line fashion, but made by the hands of an individual craftsman or artist from start to finish of the product. Said facilities are limited in size to 5,000 square feet or less.

Subd. 3. Permitted Uses.

A. Administrative and Business offices.
B. Antique Shops.
C. Automobile maintenance services and sales, excluding fuel.
D. Building maintenance services.
E. Business support services.
F. Churches.
G. Clubs/ Lodges.
H. Communication services.
I. Consumer repair services.
J. Essential services, utility lines and necessary appurtenant structures.
K. Financial services/ Banking.
L. Limited Light Industry as defined in Subd. 2 above.
M. Limited Food Industry as defined in Subd. 2 above.
N. Limited Craftsman/Craftworking establishments as defined in Subd. 2 above.
O. Government Buildings and offices.
P. Indoor sports and recreation facilities.
Q. Liquor sales.
R. Museums
S. Personal services.
T. Personal improvement services.
U. Pet Services.
V. Professional services and offices.
W. Restaurants, cafes, and supper clubs.
X. Retail sales (limited.)
Y. Studios/galleries.
Z. Theaters, live or film.
AA. Public Parks.
BB. Tattoo Establishments.

**Subd. 4. Accessory Uses.** The storage of goods pertaining to the conducting of the principal permitted business use of the premises.

**Subd. 5. Conditional Uses.** Except as specifically limited herein, the following uses may be permitted in the Central Business District (CBD). Conditions of approval for Conditional Uses may include requirements to provide off-street parking. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products and equipment.

a. Apartments and townhomes limited to 6 units per floor.
b. Convention, civic and public gathering places.
c. Drive-in facilities, accessory to a principal use.
d. Automobile service stations selling fuel.
e. Shopping malls.
f. Surfaced parking lots/structures when not accessory to a permitted use.
g. Veterinary services.
h. Hotels, motels, hostels and boarding houses.

**Subd. 6. Performance Standards.** Unless otherwise specified in this chapter, each development within the Central Business District (CBD) shall be subject to the following minimum requirements.

A. Height Regulation. No building shall hereafter be erected or structurally altered to exceed two (2) stories or Thirty (30) feet in height.
B. Minimum Lot Area. The minimum lot area in the CBD shall be 1200 square feet.
C. Minimum Lot Frontage. The minimum lot frontage in the CBD shall be twenty (20) feet.
D. Yards and Setbacks. None required.
E. Screening and Fencing. The City may require the screening and fencing of commercial uses to prevent visual blight, especially on the side and rear yards which face residential districts.
F. Maximum Ground Coverage. No restriction.
G. General Regulations. Requirements for signs, parking, shopping centers and other regulations and performance standards as set forth in Section 1040 of
this chapter.
Section 1040 - Performance Standards

1040.01. Purpose.

Subd. 1. Intent. The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. The City shall be responsible for enforcing the standards.

Subd. 2. Conformance Required. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or land owners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

1040.02. Exterior Storage.

Subd. 1. Residential Districts. In Residential Districts all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, recreational equipment, construction/landscaping materials and equipment currently (within a period of thirty-six (36) hours) being used on the premises, agricultural equipment and materials if these are to be used or intended for use on the premises, off-street parking of passenger automobiles and pickup trucks, boats and non-commercial, personal, recreational travel trailers are permissible if stored in the rear yard.

Subd. 2. All Districts. In all districts, the City may require a conditional use permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health, safety, convenience, morals, or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes threat to living amenities.

1040.03. Refuse. In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

1040.04. Screening.

Subd. 1. Purpose. The purpose of Section 1040.04 of the Code of the City of Blue Earth is to promote a pleasant physical environment, and to protect public and private property within the City of Blue Earth by regulating the location, height, type of construction, and maintenance of screening and fencing.

Subd. 2. Permit Required. No person shall erect a screen or fence within the City of Blue Earth without written authorization from the Zoning Administrator or City Administrator.

Subd. 3. Prohibited Materials. Except as specifically provided below in Subd. 4 of this
Section, the following types of fencing and screening materials shall not be permitted within the City of Blue Earth:

A. Electrically Charged Element
B. Barbed Wire
C. Spiked Wire or Board
D. Temporary roll fencing (such as wood or synthetic based snow fencing)

**Subd. 4. Exceptions to Prohibited Materials.** Prohibited materials shall only be allowed for use as fencing or screening if authorized by the Zoning Administrator or City Administrator under the following circumstances:

A. Enclosure of public buildings and structures if at least eight feet (8 ft.) above grade level.
B. Enclosure of communication support structures if at least eight feet (8 ft.) above grade level.
C. Purposes of underground or invisible pet restraint systems.
D. Purposes of above ground animal restraint systems located upon lands zoned for agricultural use in Chapter 10 of the City Code.
E. Enclosure of private property located within designated lands zoned for industrial and highway business use in Chapter 10 of the City Code if at least eight feet (8 ft.) above grade level.
F. Temporary roll fencing for the purpose of establishing a safety barrier protecting construction zones, dangerous conditions, crowd control, etc.

**Subd. 5. Required Residential Screening.** Screening shall be required in residential zones where (1) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone, and (2) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.

**Subd. 6. Required Business Screening.** Where any business (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Inspector).

**Subd. 7. Required Exterior Storage Screening.** All exterior storage shall be screened. The exceptions are: (1) merchandise being displayed for retail sale on-site; (2) materials and equipment presently being used for construction on the premises; and (3) merchandise located on service station pump islands.

**Subd. 8. Requirements for Required Screening.** The screening required in this Subsection may consist of a fence, trees, shrubs and berms not less than six (6) feet high but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed no closer than fifteen (15) feet from the street right-of-way with landscaping between the screening and pavement. The screening shall block direct vision and have an opacity of not less than eighty percent (80 %). Planting of a type approved by the Zoning Administrator or City Administrator may also be required in addition to or in lieu of fencing.

**Subd. 9. Limitations for Non-required Residential Screening.** Fencing within a residential zone at the option of the property owner shall be limited to six (6) feet in height, shall not extend within fifteen (15) feet of the improved portion of any street, and shall in no way be constructed so as to obscure traffic visibility on any street or at any intersection. No fence may extend closer to the street located nearest the front of the house than the principal building, except
decorative fencing is allowed in the front of a home if not designed or serving as an enclosure. Decorative fencing includes, but is not limited to, such things as split rail, picket, and brick fences. Decorative fencing shall not include chain link fencing. The allowed height for decorative fencing shall not exceed six feet (6 ft.) at its tallest point. All decorative fencing shall permit at least fifty percent (50%) opacity.

**Subd. 10. Maintenance.** All screening or fencing in the City of Blue Earth must be maintained in good repair on both sides of the fence or screen and present an appropriate appearance on both sides of the fence or screen consistent with the character of the neighborhood in which the screen or fence is located. All screening or fencing shall be maintained so that the outer surface shall be uniform in appearance and shall be uniformly painted, stained, or rust proofed, material permitting. The finished side of all screening or fencing shall face outward towards the nearest street or neighboring property.

**Subd. 11. General Requirements.**
A. **Easements and Public Right-of-Way.** No screening or fencing shall be permitted upon public right-of-way. No screening or fencing shall be erected upon or within any platted or otherwise designated easement.
B. **Property-line Screening or Fencing.** Screening or fencing shall not be erected within the City of Blue Earth any closer than three (3) feet from the property line. A variance shall be required for placement of screening or fencing closer to the property line. Where the property line is not clearly defined and located, a certificate of survey may be required by the Zoning Administrator or City Administrator to establish the property boundary prior to issuance of a building permit.

1040.05. **Landscaping Maintenance.** In all Districts, all structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

1040.06. **Glare.** In all Districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high-temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

1040.07. **Parking.**

**Subd. 1. Surfacing and Drainage.** Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water without damage to adjoining property. These requirements shall also apply to open sales lots. Durable and dustless surface may include crushed rock and similar treatment. The Council may require the use of asphalt, concrete, or other surface (water sealed) when circumstances warrant it.

**Subd. 2. Location.** All accessory off-street parking facilities required herein shall be located as follows:

A. Spaces accessory to one (1) and two (2) family dwellings on the same lot as the principal use served;
B. Spaces accessory to multiple-family dwellings on the same lot as the principal use served or within 200 feet of the main entrance to the principal building served;

C. There shall be no off-street parking space within five (5) feet of any street right-of-way;

D. No off-street open parking area containing more than four (4) parking spaces shall be located closer than five (5) feet from an adjacent lot zoned or used for residential purposes.

Subd. 3. General Provisions.

A. Access drives may be placed adjacent to property lines except that drives consisting of crushed rock, or other non-finished surfacing shall be no closer than one (1) foot to any side or rear lot line.

B. Parking spaces. Each parking space shall not be less than nine (9) feet wide and twenty (20) feet in length for diagonal parking and eight (8) feet wide and twenty-two (22) feet in length for parallel parking.

C. Control of off-street parking facilities. When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the City requiring the owner and his or her heirs and assigns to maintain the required number of off street spaces during the existence of said principal use.

D. Use of parking area. Required off street parking space in any District shall not be utilized for open storage or goods or for the storage of vehicles which are inoperable or for sale or for rent.

Subd. 4. Design and Maintenance of Off-Street Parking Areas.

A. Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed twenty-two (22) feet in width and shall be so located as to cause the least interference with traffic movement.

B. Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.

C. Curbing and Landscaping. All open off-street parking area designed to have head-in parking along the property line shall provide a bumper curb not less than three (3) feet from the side property line or a guard of normal bumper height not less than one (1) foot from the side property line. When said area is for six (6) spaces or more, a curb or fence not over five (5) feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or fence.

D. Parking space for six (6) or more cars. When a required off-street parking space for six (6) cars or more is located adjacent to a Residential District, a fence of adequate design, not over five (5) feet in height nor less than four (4) feet in height shall be erected along the Residential District property line.

E. Maintenance of off-street parking space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required fences.

F. Determination of areas. A parking space shall not be less than 300 square feet per vehicle of standing and maneuvering area.

Subd. 5. Parking in Residential Areas. Parking in residential areas (off-street and on-
street) shall be limited to the use of the residents of those homes. Except for short-term parking (six (6) hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having automobile driver's licenses.

**Subd. 6. Off-Street Spaces Required.** (One Space Equals 300 Square Feet).

| A. | One (1) and (2) Two Family Residences | Two (2) spaces per dwelling unit |
| B. | Multiple Dwellings                   | Two (2) spaces per dwelling unit |
| C. | Business and Professional Offices    | One (1) space for each 400 square feet of gross floor space. |
| D. | Hotel or Motel                       | One (1) space per rental unit, plus one (1) space per employee. |
| E. | Drive-in Food Establishment           | At least one (1) space for each fifteen (15) square feet or gross floor space in building allocated to drive-in operation. |
| F. | Automobile Service Station           | At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall. |
| G. | Retail Store in B-2 District          | At least one (1) off-street parking space for each 150 square feet of gross floor area floor area. |
| H. | Restaurants, Cafes, Bars, Taverns, Night Clubs except in the Central Business District where no off-street parking requirements shall apply | At least one (1) space for each three (3) seats based on capacity design. |
| I. | Uses Not Specifically noted           | As determined by the Council following review by the Planning Commission. |

**1040.08. Traffic Control.** The traffic generated by any use shall be channeled and controlled in a manner that will avoid: (a) congestion on the public streets; (b) traffic hazards; and (c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets. On corner lots, (including rural areas) nothing shall be placed
or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of fifty (50) feet from the intersection of the right-of-way lines.

1040.09. Tree and Woodland Preservation. The following restrictions shall apply to all residential development occurring in wooded areas.

Subd. 1. Structures. Structures shall be located in such a manner that the maximum number of trees shall be preserved.

Subd. 2. Clear Cutting. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the clear cutting of trees on the site and that if trees are cut, he will restore the density of trees to that which existed before development but in no case shall he be compelled to raise the density above ten (10) trees per acre.

Subd. 3. Replanting. Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

1040.10. Soil Erosion and Sediment Control. The following standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling or exposure of soils.

Subd. 1. General Standards.

A. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

B. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

C. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

D. The drainage system shall be constructed and operational as quickly as possible during construction.

E. Whenever possible, natural vegetation shall be retained and protected.

Subd. 2. Exposed Slopes. The following control measures shall be taken to control erosion during construction.

A. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and nettings, or should be worked with the soil to provide additional slope stability.

B. Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.
C. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period may be extended only if the Planning Department is satisfied that adequate measures have been established and will remain in place.

D. The natural drainage system shall be used as far as is feasible for the storage and flow of runoff. Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flows, erosion damage, and construction cost.

1040.11. Explosives. No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except as are specifically licensed by the Council.

1040.12. Guest Houses. Guest houses, for purpose of this Chapter, shall be an accessory building detached from the principal building where accommodations for sleeping is provided but no kitchen facility provision is made. The use is for persons visiting the occupants of this principal building. Guest houses shall be permitted in all Residential Districts and shall be located the required depth of the rear yard or more from the principal building and shall conform to the side yard requirements for the principal building.


Subd. 1. Drainage. The entire area of any drive-in business shall have a drainage system approved by the City Engineer.

Subd. 2. Surface Requirement. The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.

Subd. 3. Screening. A fence or screen of acceptable design not over six (6) feet in height or less than four (4) feet shall be constructed along the property line abutting a Residential District and such fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.

Subd. 4. General.

A. Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, in-door food and beverage service seating area sufficient to accommodate at least twenty-four (24) customers.

B. The hours of operation shall be set forth as a condition of any building permit for drive-in business.

C. Each drive-in business serving food may have outside seating for at least twenty-four (24) customers.

D. Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.

Subd. 5. Locations.

A. No drive-in business shall be located within four hundred feet of a public or parochial school, church, public recreation area, or any Residential District.
B. No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.
C. No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the Comprehensive Plan.

**Subd. 6. Site Plan.**
A. The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.
B. A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.
C. Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
D. The design of any structure shall be compatible with other structures in the surrounding area.
E. Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 400 feet of any residentially zoned or used property, nor within 200 feet of any adjacent lot regardless of use or zoning district.
F. No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.
G. No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.
H. No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within fifty (50) feet of intersecting street curb lines.

**Subd. 7. Drive-In Theaters.** In the case of a drive-in theater, a solid fence not less than eight (8) feet in height and extending at least to within two (2) feet of the ground shall be constructed around the property.

**Subd. 8. Lighting.** The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

**1040.14. Auto Service Stations.** The following standards shall be applicable to auto and truck service stations in all Districts.

**Subd. 1. Drainage.** A drainage system, subject to approval by the City Engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the Council. Pump islands shall not be placed in the required yards. The area around the pump island to a distance of eight (8) feet on each side shall be concrete. A box curb not less than six (6) inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than fifty (50) feet from the intersection of two (2) street right-of-way lines. Each service station shall have at least two (2) driveways with a minimum distance of 170 feet between centerlines when located on the same street.

**Subd. 2. Parking Restrictions.** No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than fifteen (15) days.
Subd. 3. Exterior Storage. Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

Subd. 4. Screening. All areas utilized for the storage, disposal, or burning of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner.

Subd. 5. Conditional Use Permits. Business activities not listed in the definition of service stations in this Chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following: (1) automatic car and truck wash; (2) rental of vehicles, equipment, or trailers; and (3) general retail sales.

1040.15. Manufactured Homes.

Subd. 1. Intent. The intent and purpose of this Subsection is to assure the adequate provision of necessary services to manufactured homes by the City so as to promote the health, safety, and general welfare of the occupants and general public, to preserve property values within the City, and to regulate development in accordance with the City's land use and zoning plans. Necessary services include police and fire protection, utilities including water, sewage, and lighting, and the regulation of health conditions.

Subd. 2. Use. The placement of manufactured homes, both permanent and temporary, within the City, for periods exceeding seventy-two (72) hours, will be limited to approved manufactured home parks and subject to the guidelines set forth in Section 1040.15 of the City Code.

1040.155. Manufactured Home Parks.

Subd. 1. Intent. The intent and purpose of this Subsection is to assure quality development equal to that found in other types of residential areas throughout the City. Excellence of design, development and maintenance are the desired objective.

Subd. 2. Conditional Use Permit Required. It is unlawful for any person to attempt to develop, expand or enlarge a manufactured home park within the City without first obtaining a conditional use permit. Conditional use permits shall only be granted for manufactured home parks which are located within the boundaries of Multiple Family Urban Districts (R-3). The requirements of a conditional use permit shall prevail over all other standards and requirements notwithstanding the more restrictive Sections of this Chapter. A conditional use permit for a manufactured home park may contain other requirements beyond those mentioned in this Subsection.

Subd. 3. Application. The application for a conditional use permit, in addition to other requirements, shall include the name and address of the developer and a general description of the construction schedule and construction cost. The application for a conditional use permit shall be accompanied by twelve (12) copies of plans which indicate the following:

A. Location and size of the manufactured home park.
B. Location, size and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.
C. Detailed landscaping plans and specifications.
D. Location and width of sidewalks.
E. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service and gas service.
F. Plans for overhead street lighting system shall be submitted for approval by the City Engineer.
G. The method of disposing of garbage and refuse.
H. Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.
I. Plans and specifications for all road construction either within the park or directly related to park operation.
J. Floor plans of all service buildings to be constructed within the manufactured home park.
K. Such other information as may be required or requested by the City.
L. Detailed description of maintenance procedures and grounds supervision.

Subd. 4. Performance Standards for All Manufactured Home Parks.
A. A responsible attendant or caretaker shall be in charge of every manufactured home park at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than fifty (50) lots, the attendant, caretaker or other responsible employee, shall be readily available at all times in case of emergency.
B. All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No waste water from manufactured homes shall be deposited on the surface of the ground.
C. All manufactured homes shall be properly connected to a central water supply and a public sanitary sewer system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the City Engineer. Where a public water supply is available to the manufactured home park or at the boundary of the park, a connection to said public water supply shall be provided for each manufactured home.
D. All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the associated utilities, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes.
E. The area beneath all manufactured homes shall be enclosed with a material that shall be generally uniform through the entire manufactured home park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.
F. Each manufactured home lot shall be served by a central fuel supply system such as natural gas or a central LP system. No separate private fuel containers, such as fuel oil tanks or LP tanks shall be allowed in the manufactured home park except by special temporary permit which shall be issued by the Zoning Administrator.
G. Every structure in the manufactured home park shall be developed and maintained in a safe, approved, and substantial manner. The exterior of every such structure shall be kept in good repair, and shall be repainted or refinished when so directed by the Building Inspector. All of said structures must be constructed to meet existing applicable Codes. Portable fire extinguishers
rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

H. Manufactured home parks shall have a plan for the sheltering or the safe evacuation of the residents of the park in times of severe weather conditions, such as tornadoes, high winds and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the City and shall be posted at conspicuous locations throughout the park.

I. Manufactured Home Stands. The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

J. All structures shall require a building permit. A building permit shall also be required whenever a manufactured home is installed or removed from a site. It is not the intent of this Subsection to repeal or abrogate any part of the State Building Code. The provisions of this Subsection shall be enforced in addition to and in conjunction with the provisions of the State Building Code.

K. To facilitate enforcement of the performance standards the manufactured home park owner shall annually provide the City with a site plan which shall indicate the manufactured home sites, site size, location of utilities, streets and tenants.

**Subd. 5. Manufactured Home Park Lots.**

A. Each manufactured home site shall contain at least 4,500 square feet of land area for the exclusive use of the occupant. Each site shall abut or face a clear unoccupied space of not less than thirty-six (36) feet in width which space shall have unobstructed access to a street. Larger manufactured homes will require longer lots to comply with the following requirements of this Subsection.

B. Manufactured homes shall be placed upon manufactured home lots so that there shall be at least a twenty (20) foot clearance between manufactured homes and twenty (20) feet between the front of the manufactured home and the front lot line and ten (10) feet between the rear of the manufactured home and the rear lot line. Manufactured homes shall be parked no closer than ten (10) feet to a side lot line.

C. The area occupied by a manufactured home shall not exceed fifty percent (50%) of the total area of a manufactured home site. Land may be occupied by a manufactured home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure.

D. The yards shall be landscaped except for necessary driveway and sidewalk needs in the lawn area.

E. Each manufactured home lot shall have paved off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum or as approved by the Zoning Administrator.

F. No manufactured home, off-street parking space, or building shall be located within thirty (30) feet of the exterior boundary of any manufactured home park. No manufactured home shall be located within twenty (20) feet of the right-of-way or a public street.

G. The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

H. Each manufactured home lot shall be so designed that automobiles may not be parked within five (5) feet of the side of any manufactured home or within five (5) feet of the front or back of the manufactured home.
I. All manufactured home parks shall have an area set aside for dead storage. Boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, shall not be stored upon a manufactured home lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.

Subd. 6. Manufactured Home Stands. The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

A. The manufactured home stand shall be provided with state approved anchors and tie-downs.

B. Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensile strength of 2,800 pounds or as approved by the current Minnesota State Uniform Manufactured Home Standards Code, whichever is more restrictive.

1040.16. Bulk Storage (Liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of 10,000 gallons shall secure a conditional use permit. The Council may require the development of diking around said tanks. Diking shall be suitably sealed, and shall hold a leakage capacity equal to 115% of the tank capacity. Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operations within a reasonable period of time specified by the Council.


Subd. 1. In Residential Districts.

A. No accessory buildings may be located within five (5) feet of the side lot line nor within five (5) feet of the rear lot line.

B. No accessory building shall be located nearer the front lot line than the principal building on the lot.

C. No accessory building shall exceed the height of the principal building.

D. Detached utility sheds or sheds attached to a principal structure separated from the principal structure by a wall shall be permitted by conditional use permit. If detached, they should not be located closer than six (6) feet from the principal structure. A concrete slab or other suitable foundation should be required. Such sheds shall not be larger than 400 square feet in area.

E. No private garage used or intended for the storage of passenger automobiles shall exceed 1,300 square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet.

F. When a private garage is oriented so as to face onto a public street, it shall not be less than twenty (20) feet from the front line. When a private garage is oriented so as to face onto a public alley, it shall not be less than twenty (20) feet from the alley.

Subd. 2. In Commercial and Industrial Districts.

A. No accessory building shall exceed the height of the principal building except by
conditional use permit.

B. Accessory buildings may be located any place to the rear of the principal building subject to the building code and fire zone regulations except that accessory buildings may be located in front of the principal building in the General Industrial Zone (GI).

**Subd. 3. In All Districts.**

A. No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.

B. An accessory building shall be considered as an integral part of the principal building if it is located less than six (6) feet from the principal building.

C. Where the natural grade of a lot at the building line is eight (8) feet or more above the established curb level, a private garage may be erected within any yard provided one-half (½) or more of its height is below grade level and it is not located less than ten (10) feet from any street line.

D. Accessory structures located on lake or stream frontage lots may be located between the public road and the principal structure provided it is clearly demonstrated that physical conditions require such a location. In no event, however, shall the structure be located closer than twenty (20) feet to the public road right-of-way.

E. An accessory building may be located within the rear yard setback provided that the lot is not a through lot and said accessory building does not occupy more than twenty-five percent (25%) of a required rear yard.

**1040.18. Land Reclamation.** Land reclamation may be permitted by conditional use permit in all Districts. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land. The permit shall state the type of fill allowed. Application for a permit shall include a plan for fire control and general maintenance of the site. A plan for controls of vehicle ingress and egress, and shall include provisions that will be taken to minimize erosion and excessive dust conditions.

**1040.19. Dwelling Units Prohibited.** No basement, garage, tent, trailer, or accessory building shall at any time be used as a dwelling. The basement portion of finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

**1040.20. Farming Operations.** All farms in existence upon the effective date of this Chapter shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained herein shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character. Setback and other regulations shall apply to farming operations just as they do to urban development. The Council may require any farm operation to secure a conditional use permit to expand or intensify said operations in the event that the farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade and further that such operations may tend to become a permanent industrial type operation that cannot be terminated as can a normal farming operation.

**1040.21. Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official
action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

1040.22. Platting. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.

1040.23. Permitted Encroachments. The following shall be considered as permitted encroachments on setback and height requirements except as hereinafter provided:

   Subd. 1. In Any Yard. Posts, off-street open parking spaces, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended.

   Subd. 2. In Side and Rear Yards. Bays not to exceed a depth of three (3) feet or contain an area of more than thirty (30) square feet, fire escape not to exceed a width of three (3) feet. Balconies eight (8) feet above grade may extend into yards to within five (5) feet of a lot line provided said balconies do not extend over driveways. Breezeways, detached outdoor picnic shelters, open arbors, trellises, and detached outdoor living rooms may extend to within five (5) feet of a side or rear lot line except that no such structure shall exceed 500 square feet. Covered porches may extend twenty (20) feet into the rear yard but not closer than ten (10) feet from the rear lot line.

   Subd. 3. Height Limitation Exceptions. Height limitations shall not apply to barns, silos, and other structures on farms; to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flagpoles, public utility facilities; transmission towers of commercial and private radio broadcasting stations; television antennae; and parapet walls extending not more than four (4) feet above the limiting height of the building except as hereinafter provided. (Section

   Subd. 4. Structure Sizes. In no event shall off-street parking space, structures of any type, buildings, or other features cover more than seventy-five percent (75%) of the lot area resulting in less than twenty-five (25%) landscaped area in Residential Districts.


   Subd. 1. City Roadways. Access drives may not be placed closer than five (5) feet to any side or rear lot line. No access drive shall be closer than three (3) feet to any single or two (2) family residence, no closer than five (5) feet to any multiple family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

   Subd. 2. County Roadways. Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

   Subd. 3. Other. Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Zoning Administrator shall review all access drives (driveways) for compliance with accepted City access drive standards.
Subd. 4. Driveways. All driveways shall have a minimum width of ten (10) feet with a pavement strength capable of supporting emergency and fire vehicles.

Subd. 5. Emergency Vehicle Access. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.

1040.25. Commercial Feedlots.

Subd. 1. Permits. All proposed commercial feedlots shall require a separate permit to be submitted to the Zoning Administrator and to the Pollution Control Agency for review. The following information shall be submitted as part of this permit:

A. A map or aerial photo indicating dimensions of feedlot and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, and general contour and north arrow.

B. A description of the geological conditions, soil types, and ground water elevations, including the high water table to a depth of ten feet below the lowest elevation on the site.

C. A plan indicating an operational procedure, the location and specifications of proposed animal waste treatment facilities, land used for the disposal of waste and the quantity and type of effluent to be discharged from the site.

D. Should the land indicated as a disposal site not be owned by the applicant, a lease submitted indicating that the applicant has the right to dispose of waste on said land shall accompany the application, the same showing the duration of the lease.

Subd. 2. Setback Requirements. The following setback requirements shall be used on all feedlots:

A. No feedlot shall be located within 1,000 feet of the normal high water mark of any lake, pond, or flowage, or within 300 feet of a river or stream.

B. No feedlot shall be located within the Flood Plain.

C. Feedlots shall not be located within 1,000 feet of a public park.

D. Feedlots shall not be located within one-half (½) mile of ten (10) or more homes.


Subd. 1. Permits. All proposed irrigation systems shall require a conditional use permit from the Council as well as a permit from the Department of Natural Resources (DNR). As part of the application for a conditional use permit from the City, the applicant shall submit a permit from the DNR.

1040.27. Cluster Development.

Subd. 1. Where Permitted. Cluster development, the placing of residential dwelling units into compact groupings, may be permitted in any Residential or Agricultural District following the completion and approval of a preliminary and final plat for a cluster development. The Planning Commission and Council shall find that the proposed development plan is in substantial compliance with the applicable standards of this Chapter.

Subd. 2. Definition. A cluster development shall be defined in this Chapter as a residential
development in which a number of single family dwelling units are grouped on smaller than usual or minimum lots, leaving some land undivided for common use by all residents of the development.

Subd. 3. Common Land. Common land may be preserved as agricultural land, open recreation space for recreational facilities, or for preservation of natural or scenic resources.

Subd. 4. Dimensional Standards. Except for minimum setbacks and height limitations for the district in which the development is proposed, altered dimensional standards may be allowed as exceptions to this Chapter for cluster development, provided that:

A. In Agricultural (AG) and Residential (R-1, R-2, R-3) Districts of this Chapter, the number of dwelling units allowed shall not exceed the total number of dwelling units allowed if the development was based on the minimum lot size and density requirements for a single family residential subdivision.

B. Open space shall be preserved. At least 40% of the site shall be kept in its natural state or utilized for recreation or agricultural purposes.

C. Complete plans and documents of the homeowners association are submitted which explain:
   1. Ownership and membership requirements.
   2. Organization of the association.
   3. Time at which the developer turns the association over to the homeowners.
   4. Approximately monthly or yearly association fee for homeowners.
   5. Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.
   6. No cluster development lot shall be less than 6,000 square feet in area.

1040.28. Signs.

Subd. 1. Purpose. The purpose of this Subsection is to protect, insure, maintain and regain the natural and scenic beauty and attractiveness of the roadside throughout the City. By the construction of public roads, the public has created views to which the public retains a right-of-view and it is the intent of these standards to prevent taking of that right. Signs are recognized as accessory uses and are permitted in all Districts subject to the regulations of this Chapter.

Subd. 2. Illegal Signs. No sign shall be allowed that is a hazard to the public health, safety, convenience, welfare, or that prevents ingress or egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard, or that is attached to a standpipe or fire escape.

Subd. 3. Design Restrictions. Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. No sign shall be placed so as to obstruct or interfere with traffic visibility or traffic control.

Subd. 4. Private Signs. Private signs are prohibited within the public right-of-way of any street or easement.

Subd. 5. State & Federal Right-of-Ways. All signs on State and Federal highways right-of-way shall conform to State and Federal sign regulations.

Subd. 6. Signs Permitted. The following signs will be permitted in all Districts subject to the specific standards indicated:

A. One sign on each side of a non-conforming business establishment where there is access to that business establishment, announcing without display or elaboration only the name and occupation of the proprietor and not to exceed four (4) feet in height and ten (10) feet
in length.

B. Wall signs on any conforming use building or business establishment not to exceed twenty percent (20%) of the wall area for businesses in commercial districts.

C. Multi-tenant business centers may have one wall sign per business which has an exclusive exterior entrance. A second wall sign may be allowed if a tenant has an additional exclusive exterior entrance on a second wall. All wall signs shall not exceed more than twenty percent (20%) of the wall area occupied by the tenant.

D. Projecting signs, including canopy and awning signs, as well as wall signs will be permitted within the Central Business District. Projecting signs and awnings shall have a minimum clearance of seven (7) feet above a public sidewalk. Such signs shall not project more than six (6) feet from the building. The entire awning shall be counted towards the maximum sign area if the awning is internally lit. Projecting signs must further comply with any county or state requirements for such signs, if any.

E. Wall signs in residential zones shall not exceed ten percent (10%) of the wall area used for retail purposes.

F. Wall signs shall not project above the roof level of any building.

G. Real Estate signs shall not exceed sixteen (16) square feet in area which advertise the sale, rental, or lease of the premises upon which the sign is temporarily located. Real estate signs shall be composed of a metal or other non-bendable material and have an appearance of professional quality. All real estate signs shall be either attached to the structure which is for sale or rent or placed directly into the ground. The affixing of signs to trees and utility posts is prohibited.

H. Warning signs shall not exceed sixteen (16) square feet.

I. Memorial signs, tablets and names of buildings and date of erection when out into any masonry surface or when constructed of metal and affixed flat against a structure, not to exceed sixteen (16) square feet.

J. Official signs such as traffic control, parking restrictions, information and notices.

K. Political signs are allowed in any district on private property with the consent of the owner of the property. Such signs must be removed within seven (7) days following the date of election or elections to which said signs applied.

L. Construction signs not exceeding thirty-two (32) square feet in area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is completed.

M. Temporary signs or banners when authorized by the Council.

N. In non-residential districts, pylon signs no higher than thirty-five (35) feet and no greater than 100 square feet per side of the sign.

O. In residential districts, pylon signs shall be limited to sixteen (16) square feet in area and shall not exceed seven (7) feet in height.

P. All other signs shall require a conditional use permit.

Subd. 7. Non-Conforming Signs. Signs lawfully existing at the effective date of this Chapter may be continued although the use, size or location does not conform with the provisions of this Chapter. However, it shall be deemed a non-conforming use.

Subd. 8. Sign Maintenance.

A. Painting. The owner of any sign shall be required to have such sign properly
painted at least once every two (2) years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.

B. Area Around Sign. The owner, or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six (6) feet behind and at the ends of said sign.

Subd. 9. Obsolete Signs. Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign may be found within ten (10) days after written notice from the Zoning Administrator.

Subd. 10. Unsafe or Dangerous Signs. Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure, or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

Subd. 11. All permanent signs, of non-public origin, located within the city limits of the City of Blue Earth, shall require an administrative permit issued by the City. Permits may be obtained from the Administrator’s Office, located in City Hall. Administrative permit fees for permanent non-public signs will be set in the city’s fee schedule, as periodically determined by issuance of the Council. Permits shall be obtained prior to the placement of any new signs, or within 90 days of the permanent placement thereof. Signs permanently placed on or before October 31, 2003, shall be exempt from this subdivision.

1040.29. Apartments and Other Multiple Family Uses.

Subd. 1. Conditional Use Permit Requirements. In recommending the granting of a conditional use permit for structures containing three (3) or more dwelling units, the Planning Commission shall find the proposed development plan is in substantial compliance with the following standards. In no event shall any building housing three (3) or more families in a Residential District have less than 10,000 square feet of lot area.

Subd. 2. Conditional Use Permit Required. A conditional use permit shall be required for any structure built in a Multiple Family Residential District prior to issuance of a building permit. The purpose of a conditional use permit shall be to assure that site and building plans as well as the impact on the neighborhood are fully consistent with the intent and purpose of the zoning regulations and the Comprehensive Plan for the area. All requests for conditional use permit shall be accompanied by a series of site plans and data showing:

A. Building locations, dimensions, and elevations all signs, structures, entry areas, storage sites, and other structural improvements to the site.
B. Circulation plans for both pedestrian and vehicular.
C. Fences and screening devices.
D. Solid waste disposal provisions and facilities.
E. Storm drainage plans.
F. Fire fighting and other public safety facilities and provisions such as hydrant locations and fire lanes.
G. Data pertaining to numbers of dwelling units, sizes, lot area, ratios, etc.
H. A two-foot contour topographic map of the existing site.

I. A grading plan illustrating the proposed grade changes from the original topographic map. All site area, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water, and ground water in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical run-off.

J. A recreation plan illustrating in detail all recreational facilities and structures.

K. A landscape plan. The site, when fully developed, shall be landscaped according to a plan approved by the Council. The landscaping plan shall specify the size, type, and location of all trees and shrubbery and the location of all seeded and sodded areas.

L. A soil erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of eighteen percent (18%).

Subd. 3. Council Approval Necessary. The required plans shall be reviewed by the Planning Commission and the Council. The conditional use permit shall not be issued until site plan approval is obtained from the Council after the required public hearing. The site plans, when approved, shall be made part of the conditional use permit and non-compliance with the site plans may be deemed by the Council as grounds for the revocation of the conditional use permit.

Subd. 4. Performance Bond Required. The Council shall require the developer to post a full performance bond guaranteeing that street, utility, storm drainage, landscaping, and other individually specified improvements to the building site are completed as proposed on plans approved by the Council.

Subd. 5. Parking Requirements.

A. Two (2) parking spaces per unit shall be provided on the same site as the dwelling unit. Each space shall not be less than nine (9) feet wide and twenty (20) feet in length, or as approved by the Zoning Administrator, and each space shall be served adequately with access drives.

B. A minimum of fifty percent (50%) of the parking spaces shall be in garages.

C. Parking spaces shall not be within twenty (20) feet of the side lot line, within the front yard, or within five (5) feet of the rear lot line.

D. Bituminous or concrete driveways and parking areas with concrete or asphalt curbing may be required.


A. The design shall make use of all land contained in the site. All of the site shall be related to the circulation, recreation, screening, building, storage, landscaping, etc. so that no portion of the site remains undeveloped.

B. A minimum of twenty percent (20%) of the site shall be landscaped.

Subd. 7. Screening.

A. Screening to a height of at least five (5) feet shall be required where: (a) any off-street parking area contains more than six (6) parking spaces and is within thirty (30) feet of an adjoining residential zone; and (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential zone.

B. All exterior storage shall be screened. The exterior screening required shall consist of a solid fence or wall not less than five feet high, but shall not extend within fifteen feet of any street, driveway or lot line.

C. Sidewalks shall be provided from parking areas, loading zones, and recreation
areas to the entrance of the building.

Subd. 8. Appearance. All buildings within an apartment development shall be so planned that they have the equivalent of a front appearance on each exterior vertical surface.

Subd. 9. General Building or Structural Requirements.
   A. The proposed apartment units and buildings shall conform to the Minnesota Uniform Building Code.
   B. Storage Space Requirements. All multiple family dwellings shall provide a minimum of ninety-six (96) cubic feet of miscellaneous storage space for each dwelling unit within the principal structure containing such unit. Such space shall be in addition to normal storage space provided in wardrobes, cabinets, and clothes or linen closets.
   C. Each multiple family dwelling development containing more than four (4) dwelling units shall include a play area, part of which shall be a paved surface.
   D. Any blighting or deteriorating aspects of the multiple family dwelling development shall be placed upon or absorbed by the site itself, rather than by neighboring residential uses. This provision particularly applies to the location of parking areas.
   E. The design shall make use of all land contained in the site. All of the site shall be related to the multiple family use, either parking, circulation, recreation, landscaping, screening, building, storage, etc., so that no portion remains undeveloped.
   F. Trash Incinerators and Garbage. Except with townhouses and multiple family dwellings of four (4) or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of row housing and multiple family dwellings of four units or less, there shall be no exterior incineration and all storage shall be completely enclosed by walls and roof.


Subd. 1. Purpose. The purpose of this Subsection is to establish standards and procedures by which the installation and operation of wind energy conversion systems (WECS) shall be governed within the City.

Subd. 2. Application.
   a. Conditional Use. Wind energy conversion systems may be allowed as a conditional use within any zoning district of the City, subject to the regulations and requirements of this Section, provided the property upon which the system is to be located is zoned Future Restricted Development, residential, commercial or industrial or is constructed and maintained on any parcel of at least two and one-half (2 ½) acres in size.
   b. Declaration of Conditions. The Planning Commission may recommend and the City Council may impose such conditions on the granting of a WECS conditional use permit as may be necessary to carry out the purpose and provisions of this Section.
   c. Site Plan Drawing. All applications for a WECS conditional use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned displaying the following:
      1. Location and height of all buildings, structures, above-ground utilities and trees on the lot, including both existing and proposed structures and guy wire anchors.
      2. Location and height of all adjacent buildings, structures, above-ground utilities and trees located within three hundred fifty (350) feet of the exterior boundaries of the property in question.

Subd. 3. Code Compliance.
a. Compliance With State Building Code. Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code. Drawings and engineering calculations shall be certified by a Minnesota licensed engineer.

b. Compliance With National Electrical Code. WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

Subd. 4. Manufacturing Warranty. Applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within Blue Earth. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

Subd. 5. Design Standards.

a. Height. The permitted maximum height of a WECS shall be determined in one of two ways. In determining the height of the WECS the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.

1. A ratio of one (1) foot to one (1) foot between the distance of the closest property line to the base of the WECS to the height of the system.
2. A maximum system height of one hundred seventy-five (175) feet. The shortest height of the two (2) above mentioned methods shall be used in determining the maximum allowable height of a WECS system. The height of a WECS must also comply with FAA regulation part 77 “Objects Affecting Navigable Air Space” and/or MNDOT Rule 14, MCAR 1.3015 “Criteria for Determining Obstruction to Air Navigation.”

b. Setbacks. No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS towers shall be setback from the closest property line one (1) foot for every one (1) foot of system height. WECS shall not be located within thirty (30) feet of an above ground utility line.

c. Rotor Size. All WECS rotors shall not have rotor diameters greater than twenty-six (26) feet.

d. Rotor Clearance. Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree within a two hundred foot (200) foot radius.

e. Rotor Safety. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (40 mph or greater).

f. Lightning Protection. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.

g. Tower Access. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:

1. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
2. A locked anti-climb device shall be installed on the tower.
3. Towers capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.

h. Signs. WECS shall have one sign, not to exceed two (2) square feet posted at the base of the tower and said sign shall contain the following information.
1. Warning high voltage.
2. Manufacturer’s name.
3. Emergency phone number.
4. Emergency shutdown procedures.
   i. Lighting. WECS shall not have affixed or attached any lights, reflectors, flasher or any other illumination, except for illumination devices required by FAA regulations part 77 “Objects Affecting Navigable Air Space” and FAA Advisory circular 70/7460-1F, September 1978 “Obstruction Marking and Lighting.”
   j. Electromagnetic Interference. WECS shall be designed and constructed so as not to cause radio and television interference.
   k. Noise Emission. Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.
   l. Utility Company Interconnection. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commenced upon it. There shall be an interconnect agreement in place between the property owner and the electric utility as a condition of the permit. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.

Subd. 6. Ornamental Wind Devices. Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section and shall conform to other applicable provisions of this Ordinance and the City Code.

Subd. 7. Inspection. The City hereby reserves the right upon issuing any WECS interim use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.

Subd. 8. Abandonment. Any WECS or tower which is not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.


A. No private garage, whether attached or detached to the principal residence it is accessory to, shall be larger than 1300 square feet and no dimension for any private garage shall exceed 40 feet in length.

B. Location. A private garage shall comply with all setback requirements for accessory structures as specified in Subsection 1040.17 if a garage is a detached structure/building. If attached to the principal residence, a garage shall comply with all setback requirements for a principal residence.

C. Garages with Access from Public Alley. A private garage oriented so as to face onto a public alley shall not be less than twenty (20) feet from the alley.

D. Garage Doors. The garage door shall be no higher than 10 feet high.
E. Exterior Wall Finish Requirement. All exterior wall finishes for private garages located within R-1 and R-2 zoning districts shall be of the following materials or a combination of the following materials.

1. Face Brick.
2. Painted or stained wood siding.
3. Natural stone.
4. Vinyl siding designed for use on a residential dwelling and consistent with the aesthetic look of the neighborhood.
5. Steel siding designed for use on a residential dwelling and consistent with the aesthetic look of the neighborhood.
6. Stucco.

1040.32. Solar Systems.

Subd. 1. Purpose. This subsection permits, as an accessory use, solar energy systems, while protecting the health, safety and welfare of city residents and the property interests of adjacent and surrounding land uses through appropriate zoning and land use controls.

Subd. 2. Definitions.

A. Building-integrated solar energy system. A solar energy system that is directly incorporated into the building by replacing typical building materials.

B. Ground-mounted solar energy system. A solar energy system that is installed onto the ground directly or by means of brackets or poles.

C. Roof-mounted solar energy system. A solar energy system mounted to a house or other building.

D. Solar energy system. A set of devices whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

E. Solar thermal system. A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs of the building.

Subd. 3. Permitted accessory use. Solar energy systems are allowable as an accessory use in all zoning districts, subject to the following requirements:

A. Standards.

1. Height. Roof-mounted solar energy systems shall not project beyond the peak of the roof and shall not be more than 4 feet above the roof surface to which they are attached. Ground-mounted solar energy systems shall not exceed 15 feet in height.

2. Location. Ground-mounted solar energy systems must be located in the rear yard only.

3. Setbacks. Ground mounted solar energy systems shall be set back a minimum of 20 feet from all property lines, a minimum of 20 feet from all buildings located on adjacent lots, a minimum of 20 from all public right-of-way, and a minimum of 20 feet from all utility easements. Roof-mounted solar energy systems shall comply with all building setbacks in the applicable zoning
district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

4. Coverage. Roof-mounted solar energy systems must be of a size and placed in such a location so as to allow the dwelling/building to be insured for fire/casualty and liability coverage by any insurance company licensed to do business in the State of Minnesota. Proof of coverage must be provided by the owner showing that the roof-mounted solar energy system is specifically insured will be required for any permit issued under this subdivision.

5. Feeder Lines. All power exterior electrical or other service lines must be buried below the surface of the ground.

6. Exemption. Building integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

7. Weight. Rooftop solar projects must not overload the designed weight limit of the roof.

**Subd. 4. Safety.**

A. Compliance with building codes. All solar energy systems shall comply with the Minnesota Building Code and any local building code requirements.

B. Compliance with electric code. All solar energy systems shall comply with the National Electrical Code.

C. Compliance with plumbing code. All solar thermal systems shall comply with the Minnesota State Plumbing Code.

D. Certifications. Solar energy system components shall be certified by Underwriters Laboratories Inc. and the Solar Rating and Certification Corporation. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

**Subd. 5. Approval.**

A. City Building Permit. The erection, alteration, improvement, reconstruction, and movement of a solar energy system requires a building permit from the city.

B. BELW Interconnect agreement. The owner of a solar energy system that will physically connect to a house or other building’s electrical system and/or the electric utility grid must enter into a signed interconnection agreement with Blue Earth Light and Water prior to the issuance of a building permit.

**Subd. 6. Abandonment.**

A. If the solar energy system remains nonfunctional or inoperative for more than twelve consecutive months, the system shall constitute a public nuisance. The owner shall obtain a demolition permit and remove the abandoned system at their expense. Removal includes the entire structure, including collector, mount, and transmission equipment.

**Subd. 7. Aesthetics.**

A. All solar energy systems shall use colors that blend with the color of the roof or other structure. Reflection angles from collector surfaces shall be oriented so as not to interfere with the use and enjoyment of other properties. Where necessary, screening may be required to address glare.

**Subd. 8. Easements.**

A. It shall be the responsibility of the property owner to secure/provide any desired solar easement by Blue Earth Light and Water to protect solar access for the system (per Minnesota Statutes Section 500.30).

**Subd. 9. Installation.**
A. Solar energy systems shall be installed only by licensed contractors.
Section 1050 - Planned Unit Development

**1050.01. Purpose.** This Section is intended to provide procedures and standards to allow the development of a variety of residential and commercial uses as part of a single project where traditional subdivision and zoning regulations may be inadequate or inappropriate to regulate development. Specifically, this Section is intended to encourage more efficient use of land and open space, higher standards of site and building design, and preservation and enhancement of desirable site characteristics.

**1050.02. Designation of PUD.** To achieve the purposes of this Section, the Council may designate any area within the City as a PUD and within any such designated area may waive and modify sections of Chapter 11 (Subdivision of Land) and this Zoning Chapter.

**1050.03. Permitted Uses.** Within a PUD, the Council may permit any use permitted in the other zoning districts, except the Industrial District uses will not be permitted.

**1050.04. General Requirements.**

  **Subd. 1. Application.** An application for PUD approval must be signed by all landowners of the property included in the PUD and filed with the Clerk-administrator together with the application fee established by Ordinance of the City Council. The application and all submissions must be directed to the development of the property as a unified whole.

  **Subd. 2. Public Dedication.** The Council may require up to ten percent (10%) of the land area of the project to be dedicated to the City for public use.

  **Subd. 3. Maintenance of Common Areas.** If open space or other common areas are provided within the PUD, the plan must contain provisions to assure the continued operation and maintenance of such areas through ownership by one or more of the following, as approved by the Council:

    A. The City, where a community wide use is anticipated and the Council agrees to accept the dedication;
    B. Landlord control, where use only by tenants is anticipated;
    C. Associations established under covenants and restrictions approved by the City and recorded prior to the sale of any property within the PUD.

  **Subd. 4. Density.** The density for a PUD will be established by the Council based upon the ability of the City to provide essential services, the provision of adequate open space, the economics of developing the site and the environmental impact of the proposed density. The maximum floor area ratio within a PUD may not exceed 0.75 of the area of the entire development, excluding street rights-of-way.

  **Subd. 5. Utilities.** All utilities, including telephone, electricity and telecable, must be installed underground.

  **Subd. 6. Landscaping.** Landscaping must be provided according to a plan approved by the Council after review by the Planning Commission.

  **Subd. 7. Minimum Site Size.** No site of less than five (5) acres will be considered for a PUD.
Subd. 8. Setbacks. Building setbacks from all perimeter lines of the PUD must be at least twenty-five (25) feet.

Subd. 9. Reapplication. No substantially similar application for a site may be resubmitted within six (6) months after its latest consideration.

1050.05. Concept Plan.

Subd. 1. Preapplication Conference. Prior to filing an application for PUD approval, the applicant will meet with the Zoning Administrator for guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.

Subd. 2. Purpose of Concept Plan. The Concept Plan serves as the basis for a public hearing so that the project may be publicly considered at an early stage. In approving the Concept Plan the Council approves and binds itself as to the density, general location of streets, walks, common areas, open space, residential and nonresidential uses and staging.

Subd. 3. Submission Requirements. The Concept Plan must contain the following information:

A. The names and addresses of the applicant, the landowners, if different, and all professional consultants.
B. A statement of all contractual interests held in or affecting the property.
C. Evidence of title to the property.
D. Evidence of the financial capability of the proponent to complete the proposed PUD.
E. A map depicting the existing zoning for the site and for all and within 350 feet.
F. A map depicting the location and extent of all water bodies, wetlands, streams, drainage patterns, slopes and major areas of tree cover.
G. A statement of the total number of dwelling units proposed and the approximate percent of the total project area devoted to residential and commercial uses, common or open space, public areas, streets, off-street parking and access.

Subd. 4. City Review. The Zoning Administrator will refer the plan to the Clerk-Administrator, City Attorney, Police and Fire Chiefs and the Public Works Director for their review.

Subd. 5. Public Hearing. The Planning Commission will select a time and place for a public hearing on the application, and notice of the hearing will be published and given as required under Chapter 11 of this Code. After the Planning Commission's recommendation to the Council, the Council may either grant approval, grant approval with modifications, resubmit the plan to the Planning Commission for further consideration, or deny approval. If the Council approves the Concept Plan by a simple majority, then the proponent may proceed with preparing the Final Plan, incorporating any suggestions of the Planning Commission and Council.

1050.06. Final Plan.

Subd. 1. Submission of Final Plan. After approval of the Concept Plan, the proponent may file a Final Plan, which must contain the same information as the Concept Plan plus the following:

A. A map depicting the existing development of the property and all land within 500 feet and showing the precise location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within 100 feet of the subject property.
B. A graphic rendering or topographic survey, as determined by the Zoning Administrator, of the existing site conditions at a scale not less than one (1) inch equals twenty (20) feet, or other appropriate scale as determined by the Zoning Administrator, which depicts contours, tree cover, slope analysis, water bodies, wetlands, streams and floodplains within 100 feet of the property, existing drainage patterns, vistas and soil conditions as they affect development. C. If the PUD is to be constructed in stages, a schedule for the stages stating the approximate beginning and completion dates, and the overall chronology of development from stage to stage.

D. Preliminary plans, drawn to a scale of not less than one (1) inch equals twenty (20) feet, or other appropriate scale as determined by the Zoning Administrator, showing at least the following information:

1. Proposed name of the development.
2. Property boundary lines and dimensions and all proposed lots and blocks.
3. The location, size, use and arrangement, including height and floor area, of proposed buildings and any existing buildings which will remain.
4. Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian.
5. Location, designation and total area of all common areas, open spaces and landscaping.
6. Location, use and size of structures and other land uses on adjacent properties.
7. General grading and drainage plans for the developed PUD.
8. Utilities plans.
9. Plans showing uses, floor plans, elevations and exterior finishes of proposed buildings.
10. A soil erosion control plan.
11. A final plat of the PUD, per state and local guidelines, to be filed in conjunction with the final plan.
12. Any other information required by the Planning Commission or Council.

**Subd. 2. Review by City Staff.** The Final Plan will be submitted to the Clerk-Administrator, City Attorney, Director of Public Works and the Building Inspector for review. The Final Plan must refine, implement and be in substantial conformity with the approved concept plan.

**Subd. 3. Concept Plan.** A Final Plan will not be deemed to be in substantial conformity if it:

A. Increases density by more than five percent (5%);
B. Decreases public and common open space by more than five percent (5%);
C. Significantly alters the arrangement of land uses within the PUD.

**Subd. 4. Purpose of Final Plan.** The Final Plan is to serve as a complete public record of the PUD and the land use regulations applicable to the PUD.

**1050.07. Development.**

**Subd. 1. Commencement of Construction.** If construction of the project has not commenced within one (1) year after approval of the Final Plan, the PUD approval will be null and void, unless an extension has been granted by the Council.
Subd. 2. Inspections During Development. All improvements to be constructed or erected, including streets, utilities and common areas, are subject to usual and customary inspection including the City Engineer and any other designated inspector with all fees and expenses to be paid by the developer or an independent testing company. All cost attributable to inspections of the PUD improvements will be charged to and paid by the PUD owner. If any work does not comply with the approved plans, the City Council may order that all work be terminated until steps are taken to correct any defects or deficiencies.

Subd. 3. Regulations During and After Completion. Following Final Plan approval, the Final Plan, rather than other provisions of the Zoning Code, will constitute the use, bulk, parking, subdivision and housing design and construction controls applicable to the PUD.

Subd. 4. Suspension of Regulations. The Council may by a five-sevenths (5/7ths) vote of all members of the Council suspend or amend any provisions of this Subsection.

1050.08. Non-Conforming Uses and Structures.

Subd. 1. Intent. It is the intent of this Subsection to permit nonconforming uses and structures to continue until they are removed, but it is not the intent of this Subsection to encourage their survival, or to permit them to be enlarged, expanded or extended.

Subd. 2. Limited Continuation. A nonconforming use or structure may be continued only so long as it remains otherwise lawful and complies with the following provisions:

Subd. 3. Existing Structure. No structure used for a nonconforming use may be enlarged, extended, reconstructed, replaced or moved except to change it to a conforming use.

Subd. 4. Expansion of Use. No nonconforming use may be extended to occupy any additional land outside any buildings in which the nonconforming use is conducted.

Subd. 5. Change to Conforming Use. If property used for a nonconforming use is subsequently used for a conforming use, the nonconforming use may not thereafter be resumed.

Subd. 6. Discontinued Use. When a nonconforming use is discontinued for a period of twelve (12) months, the nonconforming use will no longer be permitted.

Subd. 7. Destruction of Building. If a building used for a nonconforming use is removed or destroyed to the extent of over fifty percent (50%) of the fair market value, the nonconforming use will no longer be permitted.
1060.01. Statutory Authorization, Findings of Fact and Purpose.

Subd. 1. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Subd. 2. Findings of Fact.

A. The flood hazard areas of Blue Earth, Minnesota are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. Methods Used to Analyze Flood Hazards. This provisions of this Section are based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

Subd. 3. Statement of Purpose. It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in this Section by provisions contained herein.

1060.02. General Provisions.

Subd. 1. Lands to Which Section Applies. This Section shall apply to all lands within the jurisdiction of Blue Earth shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.

Subd. 2. Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Section. The attached material shall include the Flood Insurance Study for the City of Blue Earth prepared by the Federal Insurance Administration dated 11-3-81, and the Flood Boundary and Floodway Map dated 5-3-82 and Flood Insurance Rate Map dated 5-3-82 therein. The Official Zoning Map shall be on file in the office of the Building Inspector and the Clerk-Administrator.

Subd. 3. Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Subd. 4. Interpretation.

A. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

B. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment and Appeals shall make the
necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

Subd. 5. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

Subd. 6. Warning and Disclaimer of Liability. This Section does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of Blue Earth or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

Subd. 7. Severability. If any Subsection, subdivision, subpart, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

Subd. 8. Definitions. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Section its most reasonable application.

A. Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

B. Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all sides, regardless of the depth of excavation below ground level.

C. Conditional Use - means a Specific type of structure or land use listed in the official control that may be allowed but only after a thorough review procedure and with appropriate conditions or restrictions as provided in the official, zoning controls or building codes and upon a finding that:

1. Certain conditions or detailed in the Zoning chapter exist; and
2. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

D. Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

E. Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry area.

F. Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

G. Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Blue Earth.

H. Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

I. Flood-Proofing - a combination of structures, provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood
J. Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

K. Obstruction - any dam, wall, wharf embankment, levee, dike, pile, abutment, projection, excavations, channel modification, culvert, building, wire, fence, stockpile refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

L. Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

M. Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

N. Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to are on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

O. Regulatory Flood Protection Elevation - The regulatory Flood Protection Elevation shall be an elevation no lower than one (1) foot above the elevation caused by encroachments on the flood plain that result from designation of a floodway.

P. Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Subsection 1060.09, subdivision 3A of this Section and other similar items.

Q. Variance - means a modification of a unspecific permitted development standard required in an official control including this Section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

1060.03. Establishment of Zoning Districts.

Subd. 1. Districts:

A. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary P-4 Floodway Map adopted in Subsection 1060.02, subd. 2. Of this Section.

B. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Subsection 1060.02, subd. 2 of this Section.

C. Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Subsections 1060.04, 1060.05 and 1060.06 that follow, respectively, shall be
prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subsection 1060.11; and
2. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section and specifically as stated in Subsection 1060.10 of this Section.

1060.04. Floodway District (FW).

Subd. 1. Permitted Uses.
A. General farming, pasture, grazing, outdoor nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
B. Industrial-commercial loading areas, parking areas, and airport landing strips.
C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
D. Recreational lawns, gardens parking areas, and play areas.

Subd. 2. Standards for Floodway Permitted Uses.
A. The use shall have a low flood damage potential.
B. The use shall be permissible in the underlaying zoning district if one exists.
C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

Subd. 3. Conditional Uses
A. Structures accessory to the uses listed in subdivision 1 of this Subsection and the uses listed in subparts B-H of this subdivision below.
B. Extraction and storage of sand, gravel, and other materials.
C. Marinas, boat rentals, docks, piers, wharves, and water control structures.
D. Railroads, streets, bridges, utility transmission lines, and pipelines.
E. Storage yards for equipment, machinery, or materials.
F. Placement of fill.
G. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Subsection 1060.09, subd. 3 of this Section.
H. Structural works for flood control such as levees, dikes and flood walls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten (10) year frequency flood event.

Subd. 4. Standards for Floodway Conditional Uses.
A. All Uses. No structure (temporary or permanent ), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
B. All Floodway Conditional Uses shall be subject to the procedures and standards contained in Subsection 1060.10 of this Section.

C. The conditional use shall be permissible in the underlying zoning district if one exists.

D. Fill:

1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

3. As an alternative, and consistent with subpart 2 immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use permit must be title registered with the property in the Office of the County Recorder.

Subd. 5. Accessory Structures.

A. Accessory structures shall not be designed for human habitation.

B. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

C. Accessory structures shall be elevated on file or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the allowing additional standards, as appropriate:

1. The structure must be adequately anchored to prevent floatation, collapse or lateral movement of the structure and be designed to equalize hydrostatic flood forces on exterior walls; and

2. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.


A. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

B. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

Subd. 7. Structural Works for Flood Control. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to
the provisions of Minnesota Statute, Chapter 103F. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

**Subd. 8. Levees and Dikes.** A levee, dike or flood wall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage on both sides of a stream.

**1060.05. Flood Fringe District (FF).**

**Subd. 1. Permitted Uses.** Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying Zoning Use Districts. If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe “Permitted Uses” listed in subdivision 2 of this Subsection and the standards for all Flood Fringe “Permitted and Conditional Uses” listed in subdivision 5 of this Subsection.

**Subd. 2. Standards for Flood Fringe Permitted Uses.**

A. All structures, including accessory structures must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structure shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limit of the structure erected thereon.

B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Subsection 1060.04, subd. 4(E) (3).

C. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with subdivision 2(A) above.

D. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

E. The provisions of Subsection 1060.05, subdivision 5 shall apply.

**Subd. 3. Conditional Uses.** Any structure that is not elevated on fill or floodproofed in accordance with Subsection 1060.05, subd. 2(A) - 2(B) or any use of land that does not comply with the standards in Subsection 1060.05, subd. 2(C) - 2(D) shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Subsection 1060.05, subds. 4 - 5 and 1060.10, subd. 4 of this Section.

**Subd. 4. Standards for Flood Fringe Conditional Uses.**

A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: (1) if the enclosed area is above-grade on at least one side of the structure; (2) is designed to internally flood and is constructed with flood resistant materials; and (3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
1. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating with in the same components during times of flooding.

2. Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design must stipulate:

   a. The minimum area of openings in the wall area internal flooding is to be used as a flood proofing technique. When openings are placed in a structures walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

   b. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

B. Basements, as defined by Subsection 1060.02, Subd. 8(L), shall be subject to the following:

1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation Provided the basement is structurally dry flood proofed in accordance with Subsection 1060.05, subd. 4(C) of this Section.

C. All areas of nonresidential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.

D. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

E. Storage of Materials and Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

F. The provisions of Subsection 1060.05, subd. 5 shall also apply.

**Subd. 5. Standards for All Flood Fringe Uses.**

A. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

B. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

C. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood duration. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection 1060.05, subd. 5(B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

D. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA,'s requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

E. Flood plain developments shall not adversely effect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

F. Standards for travel trailers and travel vehicles are contained in Subsection 1060.08, subd. 3.

G. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists floatation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**1060.06. Subdivisions.**

**Subd. 1. Review Criteria.** No land shall be subdivided which is unsuitable for the reason of flooding inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the
provisions of this Section and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

Subd. 2. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

1060.07. Public Utilities, Railroads, Roads and Bridges.

Subd. 1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

Subd. 2. Public Transportation Facilities. Railroad tracks, roads and bridges to be located within the flood plain shall comply with Subsection 1060.04 and 1060.05 of this Section. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

Subd. 3. On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwater into the systems and discharges from the systems into flood waters and they shall to be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with the Section.

1060.08. Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailer and Travel Vehicles.

Subd. 1. Purpose and Scope. New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by Subsection 1060.06 of this Section.

Subd. 2. Placement. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Subsection 1060.05 of this Section. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Subsection 1060.05, Subd. 5(A), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable
to the Governing Body. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**Subd. 3. Travel Trailers.** Travel trailers and travel vehicles that do not meet the exemption criteria specified in Subsection 1060.08, Subd. 3(A) below shall be subject to the provisions of this Section and as specifically spelled out Subsections 1060.08, Subds. 3(C) and 3(D) below.

A. Exception. Travel trailers and travel vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Section Subsection 1060.08, subd. 3(B) below and further they meet the following criteria:

1. Have current license required for highway use.
2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly using campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
3. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

B. Areas Exempted For Placement of Travel/Recreational Vehicles:

1. Individual lots or parcels of record.
2. Existing commercial recreational vehicle parks or campgrounds
3. Existing condominium type associations.

C. Travel trailers and travel vehicles exempted in Subsection 1060.08, subd. 3(A) lose this exemption when development occurs on the parcel exceeding 500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or Stage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Subsections 1060.04 and 1060.05 of this Section.

D. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

1. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Subsection 1060.05.Subd. 5(A). Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of Subsection 1060.04.
2. All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as Conditional Use if in accordance with the following provisions and the provisions of Section 1060.09, subd. 4 of the Section. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and still demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Subsection 1060.07, subd. 3 of this Section.
1060.09. Administration.

Subd. 1. Zoning Administrator. A Zoning Administrator designated by the Governing Body shall administer and enforce this Section. If the Zoning Administrator finds a violation of the provisions of this Section the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Subsection 1060.11 of this Section.

Subd. 2. Permit Requirements.

A. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Section shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

B. Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator from furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

C. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

D. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Section.

E. Construction and Use to be as Provided on Applications, Plans, Permits Variances and Certificates of Zoning Compliance, Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Section, and punishable as provided by Subsection 1060.11 of this Section.

F. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

G. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.

Subd. 3. Board of Adjustment.

A. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State Law.

B. Administrative Review. The Board shall hear and decide appeals where it is
alleged there is error in any order, requirement, decision, or determination made by an administration official in the enforcement or administration of this Section.

C. Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

D. Hearings. Upon filing with the Board of adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least the day’s notice of the hearing.

E. Decisions. The board shall arrive at a decision on such appeal or Variance within sixty (60) days. In passing upon an appeal, the Board, may, so long as such action is in conformity with the provisions of this Section reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the board may prescribe appropriate conditions and safeguards such as those specified in Subsection 1060.09, Subd. 4(F), which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Section punishable under Subsection 1060.11. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. Appeals. Appeals from any decision of the board may be made according to Minnesota Statutes.

G. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high $25 for $100 of insurance coverage; and (2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**Subd. 4. Conditional Uses.** The City Council shall hear and decide applications for Conditional Uses permissible under this Section. Applications shall be submitted to the Zoning Administrator who shall forward the application to City Council for consideration.

A. Hearings. Upon filing with the Zoning Administrator an application for a Conditional Use Permit, the City Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the
Commissioner will receive at least ten (10) days notice of the hearing.

B. Decisions. The City Council shall arrive at a decision on a Conditional Use within sixty (60) days. In granting a Conditional Use Permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Subsection 1060.09, subd. 4(F), which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Section punishable under Subsection 1060.11. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

C. Procedures to be followed by the City Council in Passing on Conditional Use Permit Applications within all Flood Plain Districts.

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
   a. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
   b. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel movement, storage of materials, water supply and sanitary facilities.

2. Transmit one copy of the information described in subpart (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

3. Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

D. Factors Upon Which the Decision of the City Council Shall Be Based. In passing upon Conditional Use applications, the City Council shall consider all relevant factors specified in other Subsections of this Section, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, lamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The comparability of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site. Such other factors which are relevant to the purposes of this Section.

E. Time for Acting on Application. The City Council shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to Subsection 1060.09, subd. 4(D) of this Section. The City Council shall render a written decision within sixty (60) days from the receipt of such additional information.

F. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Section, the City council shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:
   1. Modification of was be treatment and water supply facilities.
   2. Limitations on period of use, occupancy, and operation.
   3. Imposition of operational controls, sureties, and deed restrictions.
   4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
   5. Flood-proofing measures, in accordance with the State Building Code and this Section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

1060.10. Non-Conforming Uses.

Subd. 1. Continued Use. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Section but which is not in conformity with the provisions of this Section may be continued subject to the following conditions:

A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

B. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques, i.e. FP-1 thru FP-4 floodproofing classifications allowable in the State Building Code, except as further restricted in subpart C below.

C. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community’s initial flood plain controls must be calculated into today’s current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the
structure must meet the standards of Subsections 1060.04 and 1060.05 of this Section for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

D. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.

E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Subsection 1060.04 and 1060.05 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

1060.11. Penalties For Violation of Section.

Subd. 1. Penalty. Violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a petty misdemeanor and shall be punishable as defined by law.

Subd. 2. Other Actions. Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

A. In responding to a suspected Section violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct Section violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

B. When an Section violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources, and Federal Emergency Management Agency Regional Office along with the Community’s plan of action to correct the violation to the degree possible.

C. The Zoning Administrator shall notify the suspected party of the requirements of this Section and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified period of time not to exceed thirty (30) days.

D. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to
the condition which existed prior to the violation of this Section.

1060.12. Amendments to Section. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Section, including amendments to the official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official Zoning Map must meet the Federal Emergency Management Agency’s (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider the amendment to this Section and said notice shall include a draft of the section amendment or technical study under consideration.
1070.01. Statutory Authorization

The Adult Use Ordinance is adopted pursuant to the City’s general police powers, as well as specific statutory authority and State mandated regulatory rules.

1070.02. Findings and Purpose.

Subd. 1. Intent. This section is intended to regulate "adult uses", those premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

Subd. 2. Purpose. This Ordinance is adopted for the purpose of protecting the best interest of the public health, safety, comfort, convenience and general welfare of the citizens of the City of Blue Earth.

Subd. 3. Findings.

1. The city has reviewed and analyzed numerous studies, reports, articles, judicial decisions and the experience and legislative findings of other cities around the country concerning the impacts or "secondary effects" of sexually oriented businesses and the sale, distribution, and display of sexually oriented materials (collectively, "sexually oriented business activities") on the areas in which such activities are located or take place.

2. Sexually oriented business activities can cause or contribute significantly to increases in criminal activity in the areas in which they are located or take place, thereby taxing crime prevention, law enforcement and public health services.

3. Nude dancing and other similar conduct provided by sexually oriented business activities encourages prostitution, increases the frequency of sexual assaults, attracts or encourages other related criminal activity, increases the public health and safety risks associated with sexually oriented business activities, and otherwise causes or contributes significantly to the adverse impacts and secondary effects of sexually oriented business activities on the areas to which such activities are located or take place.

4. Sexually oriented business activities can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of such neighborhoods and the housing located therein, and can inhibit the proper maintenance and growth of such neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents and reducing the value of property in such areas.

5. Sexually oriented business activities can undermine the stability of other established business and commercial uses in the areas in which sexually oriented business activities are located or take place and can cause or contribute significantly to the deterioration of such other business and commercial uses, thereby causing or contributing to a decline in such uses, an inhibition on business and commercial growth, and a resulting adverse impact on local government revenues and property values.

6. Sexually oriented business activities can have a dehumanizing and distracting influence on young people and students attending schools, can diminish or destroy the enjoyment
and family atmosphere of persons using parks, playgrounds, forest preserves and other public
recreational areas, can interfere with or even destroy the spiritual experience of persons attending
church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity
for solemn and respectful contemplation at cemeteries and similar facilities.

7. The presence of sexually oriented business activities is perceived by the public
generally and by neighboring business owners and residents as an indication that the area in which
such activities occur or take place is in decline and deteriorating, a perception that can quickly lead
to such decline and deterioration, prompting businesses and residents to flee the affected area to
avoid the consequences of such decline and deterioration.

8. The exterior appearance, including signage, of sexually oriented business activities
can have an adverse impact on young people and students; can contribute to the decline in property
values associated with sexually oriented business activities; and can otherwise cause or contribute
significantly to the adverse impacts and secondary effects of sexually oriented business activities on
the areas in which such activities are located or take place.

9. The conduct of sexually oriented business activities, including specifically, but
without limitation, adult cabarets that provide nude dancing and other similar conduct and the
operation and use of adult booths, often encourages or allows sexual activities and prostitution,
among other things, that place employees and patrons of such businesses at risk to exposure and
contraction of sexually transmitted diseases, including specifically, but without limitation, the HIV
virus, Acquired Immune Deficiency Syndrome, and venereal diseases.

10. The city has determined that sexually oriented business activities will, unless
properly regulated, have these and other severe adverse impacts and secondary effects on the city
and its residents.

11. For the reasons set forth above, among others, the members of the City Council
have found and determined that it is essential to the health, safety and general welfare of the city and
its residents to adopt comprehensive licensing regulations relating to sexually oriented business
activities, to the distribution and display of sexually oriented materials, and to the types and
operation of sexually oriented businesses that may locate in the city.

12. The members of the City Council have further found and determined that the
establishment of the regulations provided in this chapter on the operation, maintenance, and
structural aspects of sexually oriented business activities is necessary to minimize to the greatest
extent possible, or to eliminate altogether, the public health and safety risks that customarily, but
unnecessarily, exist in connection with such activities.

13. The members of the City Council have further found and determined that the
limitations on the hours of operation of sexually oriented business activities set forth in this chapter
are necessary to protect and secure neighboring uses, to control adverse noise and traffic impacts
associated with sexually oriented business activities, to enhance enforcement and implementation of
the regulations set forth herein, and to otherwise address, mitigate, and, if possible, eliminate the
adverse impacts and secondary effects of sexually oriented business activities.

14. The members of the City Council have further found and determined that the
disclosure and background information requirements set forth in this chapter relating to the owners,
operators, and others in a position of control over sexually oriented business activities are necessary
in order for the city to implement and enforce the terms and conditions of this chapter, to aid in the
prevention of crime related to sexually oriented business activities, to minimize to the greatest extent
possible, or eliminate altogether, the public health risks associated with sexually oriented business
activities, and to otherwise carry out the purposes and objectives of the regulations established herein.

15. The regulations established pursuant to this chapter are in no way based on the content of protected speech, if any, associated with sexually oriented business activities, and the purpose and intent of the regulations established pursuant to this chapter is not to restrict or prohibit protected speech, if any, associated with sexually oriented business activities, but rather is to address, mitigate, and, if possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities in the areas in which such activities are located or take place and to ensure that these activities are established, managed, and operated in a safe and legal manner at all times.

16. The city has for many years engaged in rigorous, firm, and effective policies and regulations relating to uses and activities that could have adverse impacts on the continued stability and vitality of the residential and business areas of the city and the regulations imposed by this chapter are a continuation of and consistent with those long-standing policies and regulations.

17. The city has the power and authority to adopt and enforce the terms, conditions, and regulations established in this chapter pursuant to (i) its general police powers to protect the public health, safety, morals, and general public welfare; and (ii) all other applicable provisions of law.

1070.03. Title and Short Title

Subd. 1. Title. Pursuant to the City’s general police powers, as well as specific statutory authority enabling land use regulation, the City Council ordains this document the City of Blue Earth Adult Use Ordinance.

Subd. 2. Short Title. This Ordinance shall be known, and may be referred to, as the Adult Use Ordinance. When referred to herein, it shall be known as "this Ordinance."

1070.04. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory and not permissive. For the purposes of this section, the definitions provided for herewith shall apply:

Subd. 1. Adult Uses. Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

Subd. 2. Adult Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Subd. 3. Adult Cabaret. A building or portion of a building used for providing dancing or
other live entertainment, if such building or portion of building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

Subd. 4. Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Subd. 5. Adult Health/Sports Club. A health/sports club, which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Subd. 6. Adult Massage Parlor. A massage parlor which restricts minors by reason of age, or which provides the service of "massage", if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Subd. 7. Adult Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Subd. 8. Adult Motion Picture Theater. A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Subd. 9. Adult Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service is provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Subd. 10. Liquor License. Any of the following licenses issued or approved by the City of Blue Earth pursuant to Minnesota Statute, Chapter 340A:

A. On-sale or Off-sale 3.2 percent Malt Liquor License, or
B. On-sale or Off-sale Intoxicating Liquor License, or
C. On-sale Wine License, or
D. Consumption and Display Permit (set-ups).

Subd. 11. Minor. Person(s) under eighteen (18) years of age.


A. Less than completely and opaquely covered:
   1. Human genitals;
   2. Pubic region;
   3. Buttocks; and,
   4. Female breast below a point immediately above the top of the areola; and
B. Human male genitals in a discernibly turgid state, even if completely and
Subd. 13. Specified Sexual Activities.
A. Human genitals in a state of sexual stimulation or arousal;
B. Acts of human masturbation, sexual intercourse or sodomy; and
C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

1070.05. Interpretation. In the interpretation and application, the provisions of this Ordinance shall be interpreted to protect the public health, safety and welfare of the citizens of the City of Blue Earth by providing for the regulation of adult uses. This Ordinance is not intended to limit or repeal any other powers granted to the City of Blue Earth by the State of Minnesota.

1070.06. Jurisdiction. The provisions of this Ordinance shall apply to all adult uses located within all incorporated areas of the City of Blue Earth.

1070.07. Licensing.

Subd. 1. License Required.
A. It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.
B. An application for a license must be made on a form provided by the city.
C. All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.
D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following division and each applicant shall be considered a licensee if a license is granted.
E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
   1. If the applicant is:
      (a) An individual, the individual shall state his or her legal name and any aliases, and submit proof that he or she is 18 years of age;
      (b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
      (c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
(d) The name of the owner of the property where to be located; if a corporation, then the names of the principal owners of corporation.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state (1) the sexually oriented business's fictitious name and, (2) submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension, or revocation.

5. Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

6. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone if any.

7. The applicant's mailing address and residential address.

8. The applicant's driver's license number, social security number, and/or his or her state or federally issued tax identification number.

9. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

10. A straight-line drawing prepared within 30 days prior to application depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be licensed; the property lines of any established religious institution/synagogue, school, a public park or recreation area within 500 feet of the property to be licensed. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the Building Inspector for accuracy. In the event of a dispute between the applicant and the city as to the accuracy of the drawing, the
Building Inspector may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.

11. Copy of lease and all financing documents, all business related contracts for supply of materials and consulting management.

**Subd. 2. Issuance of License.**

A. Upon the filing of said application for a sexually oriented business license said application shall be referred to the appropriate city departments for an investigation to be made on such information as is contained in the application. The application process shall be completed within 60 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is under 18 years of age.
2. An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, liens, or penalties assessed against or imposed upon him or her in relation to any business.
3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
4. An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.
6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
7. The license fee required by this chapter has not been paid.
8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

B. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to this chapter. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

C. The health department, fire department and the building official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the city.

D. Every application for sexually oriented business license (whether for new license or for renewal of an existing license) shall be accompanied by a $1,000 non-refundable application and investigation fee.

E. In addition to the application and investigation fee required above, every sexually oriented business that is granted license (new or renewal) shall pay to the city an annual non-refundable license fee of $1,000 within 30 days of license's issuance or
renewal.
F. All license applications and fees shall be submitted to the City Administrator-Clerk-Treasurer.

Subd. 3. Expiration of License.
A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date.
B. When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

Subd. 4. Suspension/Revocation.
A. The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:
   1. Violated or is not in compliance with any section of this chapter;
   2. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.
B. The city shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.
C. The city shall revoke a license if it determines that:
   1. A licensee gave false or misleading information in the material submitted during the application process;
   2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
   3. A licensee has knowingly allowed prostitution on the premises;
   4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
   5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
   6. A licensee is delinquent in payment to the city, county or state for any taxes or fees past due.
D. When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.
E. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

Subd. 5. Transfer of License. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place
other than the address designated in the application.

1070.08. Adult Use Operational Restrictions

**Subd. 1. General Provisions.** Adult uses as defined in Section 1070.04 of this Ordinance shall be subject to the following provisions:

A. No person(s) under eighteen (18) years of age shall be permitted in any adult use-principal premises, enterprise, establishment, business or place.

B. No liquor license, as defined, shall be issued to any adult use related premises, enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in "specified sexual activities" or "specified anatomical areas."

C. No adult use related premises, enterprise, establishment, business or place shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.

D. Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this Ordinance be construed to allow an activity otherwise prohibited by law.

E. Adult uses, either principal or accessory, shall be prohibited from locating in any building that is also utilized for residential purposes.

F. The owner/operator shall hire and employ their own security personnel who shall provide crowd control to maintain orderly conduct at such establishment. These employees are not required to be law enforcement personnel.

G. Off-street parking shall be provided.

H. All licensed sexually oriented businesses shall comply with the provisions of this chapter, all other applicable city ordinances, and all other applicable federal, state and local laws.

I. No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. This division shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

J. All signs for sexually oriented businesses shall be flat wall signs. The maximum allowable sign area shall be 1 square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this chapter shall contain only (i) the name of the sexually oriented business and/or (ii) the specific
type of sexually oriented business conducted on the licensed premises. Temporary signage shall not be permitted in connection with any sexually oriented business.

K. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 10:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and noon 12:00 p.m. on Sundays.

L. A person commits a violation of this chapter if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

1070.09. Location Requirements

Subd. 1. Adult Uses shall be permitted in areas zoned “GI” as defined in Chapter 10 of the Blue Earth City Code, provided the following requirements are met:

A. No adult uses shall be located within one thousand five hundred (1500) feet of:
   1. Any area zoned "R-1", "R-2", "R-3", "B-1", "B-2".
   2. Any school, as defined in Minnesota Statues 120.101.
   3. Any church or church related organization.
   4. Any licensed daycare facility, or any residential/nonresidential program, as defined in Minnesota Statutes 245A.02.
   5. Any hotel or motel.
   6. Any public park.
   8. Any youth establishment.
   9. Any nursing home.
   10. Any establishment holding a valid liquor license issued by the City.

B. Adult uses shall not be established or maintained as a permitted, conditional or accessory use in any area other than those described in paragraph A above.

1070.10. Additional Building Placement Restrictions.

The Adult Use Ordinance Regulations of the City of Blue Earth Zoning Ordinance contains standards that are additional to those set forth in other sections of the Ordinance. Minimum setbacks from roads, minimum lot and building dimensions, shall be determined by referring to the specific standards set forth in the underlying zoning districts (e.g., "R-1", "B-1"). In the event of a conflict between the setbacks listed in this ordinance and those listed in other appropriate sections of the zoning ordinance, the most restrictive setback shall apply.

1070.11. Implementation.

Subd. 1. Compliance. All adult uses shall be in full compliance with requirements of this ordinance and all other ordinances of the City of Blue Earth, as well as all other applicable provisions of County, State, or Federal laws, and applicable fire, health, and/or safety codes.

Subd. 2. Inspection. An applicant or licensee for an adult use license pursuant to Section 1070 shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other city departments or agencies to inspect the premises of a sexually
oriented business except the business office, dressing rooms and other areas not normally accessible
to the public for the purpose of insuring compliance with the law, at any tune it is occupied or open
for business. An inspection of all areas of the premises may be conducted with the permission of the
operator, agent or employee, or with an administrative search warrant.

Subd. 3. Enforcement. The City Administrator, City Zoning Official, and City Police
Department are responsible for the enforcement of this Ordinance.

Subd. 4. Penalty. Any person, firm or corporation who shall violate any of the provisions
hereof, or who shall fail to comply with any of the provisions hereof, or who shall make any false
statement in any document required to be submitted under the provision hereof, shall be guilty of a
misdemeanor. Each day that a violation continues shall constitute a separate offense.

In addition, the City may sue for injunctive relief on any violation, or to prevent a violation,
or may suspend and/or revoke any licenses or permits issued by the City with cause.

1070.12. Severability. If a court of competent jurisdiction adjudges any section, clause, provision,
or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be
affected thereby.

1070.13. Abrogation and Greater Restrictions
It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants,
or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of
this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby
repealed to the extent of the inconsistency only.

1070.14. Referral to Other Laws
If any section of this Ordinance references another Ordinance, Statute, Rule, or other provision of
law, the reference shall be for that other provision of law as currently enacted and as it may be
amended or re-codified in the future.

1070.15. Judicial Review. The district court shall expedite any action brought to contest any
provision of this chapter, or any action of the city under this chapter.

1070.16. Repeal and Adoption

Subd. 1. Repeal. It is not intended by this Ordinance to repeal any Ordinance. However,
where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All
other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the
inconsistency only.

The City of Blue Earth Planning Commission, after proper notice and publication, held a public
hearing on the adoption of this Ordinance and as amended on the 30th day of March 2006, at City
Hall. After hearing public testimony and with due deliberation, the Planning Commission voted to
recommend adoption of this Ordinance to the Council of the City of Blue Earth.

Subd. 3. Adoption.
The City of Blue Earth, after proper notice and publication, held a public hearing on the adoption of
this Ordinance on the 17th day of April, 2006, at City Hall. After hearing public testimony and with
due deliberation, the Council of the City of Blue Earth voted to adopt this Ordinance.
CHAPTER 11

SUBDIVISION REGULATION (PLATTING)

Section 1100 - General Provisions

1100.01. Title. This chapter shall be known as the Subdivision Code or the Subdivision Ordinance for the City of Blue Earth. References to the Subdivision Ordinance or Subdivision Code shall refer to this Chapter.

1100.02. Intent and Purpose.

Subd. 1. Intent. It is the intent of this Chapter that all subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein.

Subd. 2. Purpose. It is the purpose of these regulations to: (1) encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction; (2) provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service; (3) place the cost of improvements against those benefiting from their construction; and (4) secure the rights of the public with respect to public lands and waters.

1100.03. Scope and Legal Authority.

Subd. 1. Scope. The rules and regulations governing plats and subdivision of land contained herein shall apply within the City and other land as permitted by State statutes. Except in the case of resubdivision, this Chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the County Recorder prior to the effective date of this Chapter, nor is it intended by this Chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with this Chapter, or with restrictive covenants running with the land. Where this Chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control.

Subd. 2. Amendments. The provisions of this Chapter may be amended by the Council.

1100.04. Compliance. After adoption of this Code, no lot in a subdivision shall be sold, no permit shall be issued to alter or to erect any building upon land in a subdivision, and no building shall be erected in a subdivision unless a subdivision plat has been approved and recorded and the required unit improvements relative to subdivision have been constructed or guaranteed as provided in this Chapter.

1100.05. Required Approvals of Subdivision Plats. Before any plat shall have any validity, it shall have been approved by the City Council and recorded in the office of the County Recorder.
1100.06. Definitions. The following terms, as used in this Chapter, shall have the meanings stated:

**Subd. 1. Attorney.** The term “attorney” means the City Attorney.

**Subd. 2. Block.** The term “block” means the enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

**Subd. 3. Boulevard.** The term “boulevard” means the portion of the street right-of-way between the curb line or edge of sheet surface and the property line.

**Subd. 4. Butt Lot.** The term “butt lot” means a lot at the end of a block and located between two corner lots.

**Subd. 5. Certified Survey.** The phrase “certified survey” means a survey prepared by and certified by a professional surveyor licensed by the State of Minnesota.

**Subd. 6. Cluster Development.** The term “cluster development” means a subdivision development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this Chapter and the Zoning Chapter.

**Subd. 7. Comprehensive Policies Plan.** The phrase “comprehensive policies plan” means the plan prepared by the City which includes a compilation of policy statements, goals, standards and maps indicating the general locations recommended for the various functional classes of land use and for the general physical development of the City and includes any plan or parts thereof.

**Subd. 8. Contour Map.** The term “contour map” means a map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

**Subd. 9. Copy.** The term “copy” means a print or reproduction made from an original.

**Subd. 10. Corner Lot.** The phrase “corner lot” means a lot bordered on at least two sides by streets.

**Subd. 11. County Board.** The phrase “county board” refers to the Faribault County Board of Commissioners.

**Subd. 12. Development.** The term “development” means the act of building structures and installing site improvements.

**Subd. 13. Double Frontage Lots.** The phrase “double frontage lots” means lots which have a front line abutting on one street and a back or rear line abutting on another street.

**Subd. 14. Drainage Course.** The phrase “drainage course” means a water course or indenture for the drainage of surface water.

**Subd. 15. Easement.** The term “easement” means a grant by an owner of land for a specific use by persons other than the owner.

**Subd. 16. Engineer.** The term “engineer” means the registered engineer employed by the City unless otherwise stated.

**Subd. 17. Final Plat.** The phrase “final plat” means the final map, drawing or chart on which the subdivider’s plan of subdivision is presented to the Council for approval and which, if approved, will be submitted to the County Recorder.

**Subd. 18. Key Map.** The phrase “key map” means a map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

**Subd. 19. Lot.** The term “lot” means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey
map, for the purpose of sale or lease or separate use thereof.

Subd. 20. Metes and Bounds Description. The phrase “metes and bounds description” means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the direction and distances of the lines forming the boundaries of the property.

Subd. 21. Minimum Subdivision Design Standards. The phrase “minimum subdivision design standards” means the guides, principles and specifications for the preparation of subdivision plans indicating among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Subd. 22. Natural Waterway. The phrase “natural waterway” means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

Subd. 23. Owner. The term “owner” means an individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Subd. 24. Pedestrian Way. The phrase “pedestrian way” means a public right-of-way across or within a block, to be used by pedestrians.

Subd. 25. Plat. The term “plat” means a map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to all Minnesota State laws.

Subd. 26. Preliminary Plat. The phrase “preliminary plat” means the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and council for their consideration.

Subd. 27. Private Street. The phrase “private street” means a street serving as vehicular access to two or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

Subd. 28. Protective Covenants. The phrase “protective covenants” means contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

Subd. 29. Registered (Torrens) Land. The phrase “registered (Torrens) land” means property registered and governed by the requirements of Minnesota Statutes, Chapter 508. The requirements of this Statute shall apply to registered land, including the platting thereof.

Subd. 30. Registered (Torrens) Land Survey. The phrase “registered (Torrens) land survey” means a certified survey prepared under the requirements of Minnesota Statutes, Chapter 508 for registered land. References to certified surveys in this Chapter shall include Registered Land Surveys for registered land.

Subd. 31. Right-of-Way. The term “right-of-way” means the land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

Subd. 32. Sketch Plan. The phrase “sketch plan” means a drawing showing the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.

Subd. 33. Streets and Alleys. The terms “streets” and “alleys” mean the following:
A. Street - A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place or however otherwise designated.

B. Collector Street - A street which carries traffic from local streets to arterials.

C. Cul-de-sac - A minor street with only one outlet and having a turn-around.

D. Frontage Road - Marginal access street, or otherwise designated, is a minor street, which is parallel and adjacent to a thoroughfare and which provided access to abutting properties and protection from through traffic.

E. Local Street - A street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.

F. Alley - A minor way which is used primarily for secondary vehicular service access to the back or the side of properties abutting on a street.

G. Arterial Street - A street or highway with access restrictions designed to carry large volumes of traffic between various sectors of the City and beyond.

Subd. 34. Street Width. The phrase “street width” means the shortest distance between the lines delineating the right-of-way of a street.

Subd. 35. Subdivider. The term “subdivider” means any person commencing proceedings under this Chapter to effect a subdivision of land hereunder for himself or for another.

Subd. 36. Subdivision. The term “subdivision” means a subdivision is the dividing of any parcel of land into two or more parcels.

A. Platted Subdivision - If any resultant parcel is less than five acres in area and less than 300 feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, subsequent parcels must be platted in accordance with the terms and procedure of this Chapter.

B. Unplatted Subdivision - A division of any parcel of land into two or more parts wherein all parts are at least five acres and at least 300 feet in width and where no new road is involved. These do not require platting.

Subd. 37. Surveyor. The term “surveyor” means the City Surveyor or Engineer.

Subd. 38. Tracing. The term “tracing” means a plat or map drawn on transparent paper or cloth which can be reproduced by using regular reproduction procedure.
Section 1110 - Platting Procedures.

1110.01. Pre-Application Meeting. Prior to the preparation of a Preliminary Plat, the subdividers or owners may meet with the Zoning Administrator, and other appropriate officials in order to be made fully aware of all applicable City Code provisions, regulations and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider may submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply and waste disposal. The sketch plan can be presented in simple form but should show that consideration has been given to the relationship of the proposed subdivision to existing City facilities that would serve it, to neighboring subdivisions and developments, and to the topography of the site. The subdivider is urged to avail himself or herself of the advice and assistance of the Planning Commission and City Planning and Engineering staff at this point in order to save time and effort, and to facilitate the approval of the Preliminary Plat.

1110.02. Preliminary Plat.

Subd 1. Required Copies. After the pre-application meeting, the subdividers or owners shall file with the Clerk-Administrator five (5) copies of a Preliminary Plat and a cash fee of $100.00 plus $2.00 for each lot. This fee will be used for the expenses of the City in connection with the review of said Plat. The Clerk-Administrator shall refer one copy of the Preliminary Plat to the Zoning Administrator, and two copies to the Planning Commission for their review and report.

Subd. 2. Planning Commission Meeting and Report. Within forty-five (45) days after the Plat was filed and after reports and certifications have been received as requested, the Planning Commission shall hold a public hearing on the Preliminary Plat after notice of the time and place thereof has been published once in the official newspaper at least ten (10) days before the day of the hearing. This shall constitute the public hearing on the Plat as required by State law. Within fifteen (15) days of the date of the public hearing, the Planning Commission shall make its report to the Council. The Planning Commission and the Zoning Administrator may forward to the Council a favorable, conditional or unfavorable report and said reports shall contain a statement of findings and recommendations.

Subd. 3. Council Action. The Council shall act to approve or disapprove within sixty (60) days of receiving the Planning Commission’s report. If no action is taken by the Council within the sixty (60) days, the preliminary plat is presumed to be approved. If the Council disapproves the Preliminary Plat, the grounds for any such disapproval shall be set forth in the minutes of the Council meeting and reported to the owners or subdividers.

Subd. 4. Approval. The approval of a Preliminary Plat is an acceptance of the general layout as submitted, and indicates to the subdivider that he or she may proceed toward Final Plat in accordance with the terms of approval and provisions of this Chapter.

Subd. 5. Interim Improvements. During the intervening time between approval of the Preliminary Plat and the signing of the Final Plat, the subdivider must submit acceptable engineering plans for all required improvements.

Subd. 6. Mandatory Denial. In the case of all subdivisions, the Planning Commission shall recommend denial of, and the Council shall deny, approval of a Preliminary or Final Plat if it makes any of the following findings:
A. That the proposed subdivision is in conflict with adopted applicable general and specific plans of the City;
B. That the design or improvement of the proposed subdivision is in conflict with any adopted component of the Comprehensive Plan of the City;
C. That the physical characteristics of this site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development or use contemplated;
D. That the site is not physically suitable for the proposed density of development;
E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage;
F. That the design of the subdivision or the type of improvements is likely to cause serious public health problems;
G. That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a Court;

1110.03. Final Plat.

**Subd. 1. Required Copies.** The owners or subdividers shall file five (5) copies of the Final Plat with the Clerk-Administrator. If this is not done within ninety (90) days, the Preliminary Plat will be considered void unless for good cause an extension is requested in writing by the subdivider and granted by the Council. The owners or subdividers shall also submit at this time an up-to-date certified abstract of title or registered property report.

**Subd. 2. Changes to Preliminary Plat to be Incorporated.** The Final Plat shall have incorporated all changes recommended by the Zoning Administrator, the County Engineer regarding county roads and Planning Commission as conditions to approval of the Preliminary Plat, but in all other respects it shall conform to the Preliminary Plat as approved. It may constitute only that portion of the approved Preliminary Plat which the subdivider proposed to record and develop at that time, provided that such a portion conforms with all requirements of this Chapter.

**Subd. 3. Action on Final Plat.** The Clerk-Administrator shall refer to the City Engineer and the County Surveyor two (2) copies of the Final Plat and two (2) copies of the Final Plat to the Planning Commission for its review and report. The report of these agencies and persons shall be submitted to the Council within thirty (30) days of the date of submission of the Plat and the Council shall act on the Final Plat within sixty (60) days of submission of the Plat to the Clerk-Administrator. Failure of the Council to act within the sixty (60) days will result in approval of the Final Plat.

**Subd. 4. Recording of Final Plat.** Upon approval of the Final Plat by the Council the subdivider shall record such Final Plat with the County Recorder, as provided for by that office, within 120 days after the approval. Otherwise the approval of the Final Plat shall be considered void. The subdivider shall, within thirty (30) days of recording, furnish the City with three (3) black line prints and a reproducible copy of the Final Plat showing evidence of the recording.

1110.04. Data for Preliminary and Final Plats.

**Subd. 1. Data for Preliminary Plat.**
A. Identification and Description.
1. Proposed name of subdivision, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in the County.
2. Location by section, township, range, and by legal description.
3. Name of City.
4. Names and addresses of the record owner and any agent having control of the land, subdivider, land surveyor, engineer, and designer of the plan.
5. Graphic scale not less than one inch to 100 feet.
7. Key map including area within one mile radius of plat.
8. Date of preparation.

B. Existing Conditions.
1. Boundary line of proposed subdivision, clearly indicated and to a close degree of accuracy.
2. Existing zoning classifications for land within and abutting the subdivision.
3. A general statement on the approximate acreage and dimensions of the lots.
4. Location, right-of-way width, and names of existing or platted streets, or other public ways, parks, and other public lands, permanent buildings and structures, easements and section and corporate lines within the plan and to a distance 150 feet beyond shall also be indicated.
5. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name including all contiguous land owned or controlled by the subdivider.
6. Topographic data, including contours at vertical intervals of ten (10) feet, water courses, marshes, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. United States Geological Survey (USGS) datum shall be used for all topographic mapping where feasible. The City may require topographic data at two (2) or five (5) foot intervals if conditions warrant it.
7. An accurate soil survey may be required of the subdivision prepared by a qualified person. Soil percolation tests may also be required if conditions warrant it.

C. Subdivision Design Features.
1. Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross-sections, and proposed names of streets. The name of any street heretofore used in the City shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.
2. Locations and widths of proposed alleys and pedestrian ways.
3. Layout, numbers and preliminary dimensions of lots and blocks.
4. Minimum front and side street building setback lines.
5. When lots are located on a curve, the width of the lot at the building setback line.
6. Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
7. Placement of all public utilities including sewer, water, electrical, and telephone and the location and width of all utility easements.

D. Other Information.
1. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
2. Provision for surface water disposal, drainage, and flood control.
3. If any zoning changes are contemplated, the proposed zoning plan for the areas.

4. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission shall require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be shown to relate well with existing or potential adjacent subdivisions.

5. Potential resubdivision and use of excessively deep or wide (over 200 feet) lots shall be indicated in a satisfactory manner.

6. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, and landscaping of the erosion and sediment control system.

7. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted.

8. Such other information as may be requested by the Zoning Administrator or Planning Commission.

**Subd. 2. Data for Final Plat.**

A. General. The Plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall comply with the provisions of Minnesota State Statutes and of this Chapter.

B. Title opinion by a practicing attorney-at-law based upon an examination of an abstract of the records of the County Recorder or the Registrar of Titles for the lands included within the plat and showing the title to be in the name of the owner or subdivider. The date of examination of the records shall be within thirty (30) days prior to the date the Final Plat is filed with the County Auditor. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the Plat with the County Recorder.
Section 1120 - Subdivision Design Standards

1120.01. General Requirements.

Subd. 1. City Requirements Considered. The Planning Commission, in its review of the Preliminary Plat, will take into consideration the requirements of the City and the best use of the land being subdivided.

Subd. 2. Comprehensive Plan to Be Followed. If a Comprehensive Plan or official map has been adopted by the city, the subdivision shall conform to it.

Subd. 3. Arrangement Considerations. The arrangement, character, extent, width and location of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets in adjoining areas. Where adjoining unsubdivided areas may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations.

1120.02. Streets.

Subd. 1. Widths. Street right-of-way widths shall be as determined in the Policies Plan and official map and, where applicable, shall conform to County and State standards for trunk highways. If there is no such plan or standard, right-of-way widths shall conform to the following minimum dimensions:

<table>
<thead>
<tr>
<th>Street</th>
<th>Right-of-Way width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Arterial</td>
<td>250 feet</td>
</tr>
<tr>
<td>Minor Arterial</td>
<td>100 feet</td>
</tr>
<tr>
<td>Collectors</td>
<td>60-80 feet</td>
</tr>
<tr>
<td>Local</td>
<td>60 feet</td>
</tr>
<tr>
<td>Marginal Access Roads</td>
<td>60 feet</td>
</tr>
<tr>
<td>Cul-de-sac Streets</td>
<td>60 feet</td>
</tr>
<tr>
<td>Cul-de-sac Turnaround Radius</td>
<td>60 feet</td>
</tr>
</tbody>
</table>

Subd. 2. Street Intersections. Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than seventy-five (75) degrees. Intersections having more than four (4) corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated.

Subd. 3. Tangents. A tangent of at least 300 feet shall be introduced between reverse curves on arterial and collector streets. Except that the tangent may be omitted on reverse curbs with a radius greater than 1,000 feet.

Subd. 4. Deflections. When connecting street lines deflect from each other at one (1) point
by more than ten (10) degrees they shall be connected by a curve with a radius adequate to insure a
sight distance of not less than 500 feet for arterials, 300 feet for collectors, 100 feet for all other
streets. The Planning Commission may allow greater or lesser sight distances at the
recommendation of the Engineer.

Subd. 5. Street Jogs. Street jogs with centerline offsets of less than 100 feet shall be
avoided for local streets.

Subd. 6. Local Streets. Minor streets shall be laid out so that their use by through traffic is
discouraged.

Subd. 7. Cul-de-sac. The maximum length of a street terminating in a cul-de-sac shall be
500 feet, measured from the centerline of the street of origin to the end of the right-of-way.

Subd. 8. Centerline Gradients. All centerline gradients shall be at least 0.4% and shall not
exceed the following: arterials and collector streets - five percent (5%); and minor streets and
marginal access streets - eight percent (8%).

Subd. 9. Street Grading. The right-of-way of each street and alley dedicated in the Plat
shall be graded. All streets and alleys shall have an adequate sub-base and shall be improved with
all-weather permanent surface five (5) ton capacity in accordance with the design standards specified
by the City. Except in areas where lot widths exceed 100 feet or topography or tree cover dictates
otherwise, grading shall provide for easy installation of sidewalks at some future time.

Subd. 10. Concrete Curb and Gutter. Concrete curb and gutter may be required for all
paved streets.

Subd. 11. Sidewalks. Safe Routes to School Infrastructure shall be installed in all new
developments. Sidewalks may be required along both sides of all streets in areas where residential
density equals or exceeds three (3) dwelling units per net acre of residentially used land or in
commercial areas.

Subd. 12. Access to Arterial Streets. In the case where a proposed Plat is adjacent to a
limited access highway (arterial), there shall be no direct vehicular or pedestrian access from
individual lots to such highways. As a general requirement, access arterials shall be at intervals of
not less than one-fourth (1/4) mile and through existing and established cross roads where possible.

Subd. 13. Plating of Small Tracts. In the platting of small tracts of land fronting on
arterial streets where there is no convenient access to existing entrances and where access from such
plat would be closer than one-fourth (1/4) mile from an existing access point, a temporary entrance
permit may be granted. Provision shall be made in such plats for the connection of roads to
neighboring land. As the neighboring land is platted and developed, and access becomes possible at
a preferred location, such temporary entrance permits shall become void.

Subd. 14. Half Streets. Half streets shall be prohibited except where it will be practical
to require the dedication of the other half when the adjoining property is subdivided, in which case
the dedication of a half street may be permitted. The probable length of time elapsing before
dedication of the remainder shall be considered in this decision.

Subd. 15. Hardship to Owners of Adjoining Property. The street arrangements shall not
be such as to cause hardship to owners of adjoining property in platting their own land and providing
convenient access to it.

Subd. 16. Safe Routes to School. Pedestrian and bicycle infrastructure connections to the
existing sidewalk and trail system to safely accommodate children walking and bicycling to Blue
Earth Area Schools shall be provided where appropriate. Routes shall be designed in cooperation
with the City and the School District to ensure they meet recommended Safe Routes to School
guidelines provided by the Minnesota Department of Transportation.

1120.03. Blocks. The length, width and acreage of blocks shall be sufficient to provide for convenient access, circulation, control and safety of street design. Blocks may be longer than 1,300 feet or shorter than 300 feet only if the Zoning Administrator and Highway Engineer agree that exceptions are warranted. Exceptions may be warranted in order to foster design originality provided that such exceptions do not violate sound planning principles. Pedestrian ways may be required on blocks longer than 900 feet or in other areas dedicated to the City to provide access to schools, parks and other destinations. Pedestrian ways shall be at least ten (10) feet wide and shall be located so as to minimize intersections with streets.

1120.04. Lots.

Subd. 1. Size. The lot dimensions shall be such as to comply with the minimum lot areas specified in the Zoning Chapter of this Code.

Subd. 2. Side Lot Lines. Side lines of lots shall be substantially at right angles to straight street lines or radial to curved street lines.

Subd. 3. Drainage. Lots shall be graded so as to provide drainage away from building locations.

Subd. 4. Natural Features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, wetlands, steep slopes, water courses, historic spots, or similar conditions, and plans adjusted to preserve those which will add attractiveness, safety and stability to the proposed development.

Subd. 5. Lot Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

Subd. 6. Double Frontage Lots. Double frontage (lots with frontage on two parallel streets) or reverse frontage shall not be permitted except where lots back on an arterial or collector street. Such lots shall have an additional depth of at least ten (10) feet in order to allow for screen planting along the back lot line.

Subd. 7. Large Lots. On large lots (one (1) acre or more) septic tanks and drain fields shall be located in such a way as to allow future subdivision of the land.

1120.05. Tree Removal and Conservation of Vegetation. All subdivisions shall be planned, designed, constructed and maintained so that:

Subd. 1. Existing Trees and Vegetation Preserved. Existing healthy trees and native vegetation on the site are preserved to the maximum extent feasible and are protected by adequate means during construction.

Subd. 2. Existing Vegetation not Disturbed. Existing native vegetation is not disturbed, injured or removed prior to site development, except to the extent necessary to perform preliminary and final surveys.

Subd. 3. Suitable Vegetation to be Planted. Following construction, vegetation suitable to the site should be encouraged to be planted. The type or species of tree planted shall be approved by the City. Trees with root structures that are less likely to interfere with utility lines, break up
sidewalks, and cause other nuisance damage are desirable.

Subd. 4. Trees Within Right-of-Way. Existing trees shall be preserved within any right-of-way when such trees are suitably located, healthy, and when approved grading allows.

Subd. 5. Removal of Dead Matter Required. No slash, dead trees, or uprooted stumps shall remain after development.

1120.06. Erosion and Sediment Control. The following guidelines shall be applied in the subdivision and construction of land areas.

Subd. 1. Development Topography. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

Subd. 2. Control Measures. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

Subd. 3. Workable Size Development Required. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

Subd. 4. Shortest Exposure Required. When soil is exposed, the exposure shall be for the shortest feasible period of time.

Subd. 5. Topsoil Removal and Replacement. Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.

1120.07. Drainage. The natural drainage system shall be used as far as is feasible for the storage and flow of runoff. The following requirements shall also apply.

Subd. 1. Storm Water. Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control.

Subd. 2. Council Permission Necessary. No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the Council.

Subd. 3. Artificial Channels. Where artificial channels must be constructed to augment the natural drainage system, such channels as well as the natural drainage ways may be planned as part of a recreation trail system.

Subd. 4. Quick Construction Required. The drainage system shall be constructed and operational as quickly as possible during construction.

Subd. 5. Storm Sewers. Storm sewers and culverts shall be installed where necessary in conjunction with the grading of streets. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full-width roadways and required side slopes. Drainage ditches shall be sodded to prevent erosion. When feasible, curb and gutter drainages shall be handled by storm sewer.

1120.08. Utilities.
**Subd. 1. Water Supply.** Where the City water supply is available within a reasonable distance, the subdivider may be required to provide a connection to the City system. Where a City connection is determined to be feasible, service connections shall be stubbed into each platted lot.

**Subd. 2. Sanitary Sewer.** Where the City sanitary sewer is available within a reasonable distance, the subdivider may be required to provide a connection to the City system. Where a City connection is determined to be feasible, service connections shall be stubbed into each platted lot.

**Subd. 3. Other Public Utilities.** All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.

**1120.09. Easements.** All easements shall be dedicated by appropriate language on the plat as required by Minnesota Statutes, Section 505.02, subd. 2.

**Subd. 1. Provided for Utilities.** Easements at least twelve (12) feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary. They shall have continuity of alignment from block to block.

**Subd. 2. Drainage.** Easements shall be provided along each side of the centerline of any water course or drainage channel, whether or not shown in the Comprehensive Plan, to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff from a ten (10) year storm of one (1) hour duration. Where necessary, drainage easements corresponding with lot line shall be provided. Such easements for drainage purposes shall not be less than twenty (20) feet in width and shall be designed so as not to cause problems for adjacent property owners.

**1120.10. Steep Slopes.** Subdivision design shall be consistent with limitations presented by steep slopes. Subdivision shall be designed so that no construction or grading will be conducted on slopes steeper than eighteen percent (18%) in grade.

**1120.11. Monuments.** Monuments or a permanent character, as required by Minnesota Statutes, Section 505.02, shall be placed at each corner or angle on the outside boundary of the subdivision. Pipes or steel rods shall also be placed at each corner of each lot prior to the approval of the Final Plat.
Section 1130 - Improvements

1130.01. General Requirement. Prior to the Final Plat approval, the subdivider shall agree to provide the required improvements at his or her own expense in conformity with the construction plan approved by the City Engineer and in conformity with the requirements of this Chapter.

1130.02. Payment for Installation of Improvements. The required improvements to be furnished and installed by the subdivider, which are listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the public. Provided, however, that in the case of an improvement, the cost of which would be general policy of the City be assessed only in part to the improved property and the remaining cost paid out of general tax levy, the Council may make provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the City. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the Council may make provision for causing a portion of the cost of the improvement representing the benefit to such lands to be assessed against the same; and in such case the subdivider will be required only to pay for such portions of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

1130.03. Contract for Installation of Improvements.

Subd. 1. Petition. Prior to installation of any required improvements and prior to approval of the Final Plat, the subdivider shall petition the City for the necessary improvements subject to the Uniform Special Assessment Code as coded in Minnesota Statutes with subsequent amendments as Sections 429.011 to 429.111, or the subdivider shall enter into a contract in writing with the City requiring the subdivider to furnish and construct said improvements at his or her sole cost in accordance with the plans and specifications and usual contract conditions all approved by the City which shall include provisions for supervision of details and construction by the City Engineer. The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish the performance bond as specified in Subsection 1130.04 of this Chapter. The amount of the deposit and the penal amount of the bond shall equal the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection by the City. The time for completion of work and the several parts thereof shall be determined by the City upon recommendation of the Engineer after consultation with the subdivider and shall be reasonable in relation to the work to be done, the season of the year, and proper correlation with construction activity in the subdivision.

Subd. 2. Bond or Deposit. The amount of the deposit and the penal amount of the bond shall equal the Clerk-Administrator's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection by the City. The time for completion of work and the several parts thereof shall be determined by the City upon recommendation of the Clerk-Administrator after consultation with the subdivider and shall be reasonable in relation to the work to be done, the season of the year, and proper correlation with construction activity in the subdivision.

1130.04. Financial Guarantee. The contract, provided by Subsection 1130.03 above, shall require the subdivider to make an escrow deposit or in lieu thereof furnish the performance bond as follows:
**Subd. 1. Escrow Deposit.** An escrow deposit shall be made with the City, including cost of inspection by the City of all improvements to be furnished and installed by the subdivider pursuant to the contract, and which have not been completed prior to the approval of the Final Plat; but the City shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the City for completion of the work in case of default of the subdivider under said contract and for any damages sustained by the City on account of any breach thereof. Upon completion of the work and termination of any liabilities to the City or the subdivider under said contract, the balance remaining of said deposit shall be refunded to the subdivider.

**Subd. 2. Performance Bond.** In lieu of making an escrow deposit above described, the subdivider may furnish the City with a public contract of performance bond, in the form prescribed by statute, with corporate surety in a penal sum equal to the total cost as estimated by the Clerk-Administrator including cost of inspection of all improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to the approval of the Final Plat. The bond shall be approved by the City Attorney and filed with the Clerk-Administrator.

**1130.05. Construction Plans.** Construction plans for the required improvements, conforming in all respects to the standards of the City and the applicable City Code provisions, shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota; and said plans shall contain his or her seal. Such plans, together with the quantity of construction items, shall be submitted to the Clerk-Administrator for his or her approval and for his or her estimate of total cost of the required improvements; upon approval they shall become a part of the contract required in Subsection 1130.03 of this Chapter. The tracings of the plans approved by the City, plus two (2) prints, shall be furnished to the City to be filed by the City.
Section 1140 - Conveyance By Metes and Bounds

1140.01. Prohibition. Except as provided for in Section 1150 of this Chapter, no conveyance of land to which these regulations are applicable shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after the enactment of this Code.

1140.02. Exceptions. The prohibitions set out in Subsection 1140.01 shall not apply to a conveyance of land if the land is one of the following traits:

Subd. 1. Separate Parcel. The land was a separate parcel of record at the time of the enactment of this Code.

Subd. 2. Land Subject to Prior Written Conveyance Agreement. The land was the subject to a written agreement to convey entered into prior to the date of the enactment of this Code.

Subd. 3. Large Single Parcels. The land is a single parcel of land of not less than five (5) acres and having a width of not less than 300 feet.
Section 1150 - Land Division for Small Subdivisions

1150.01. General. In any case where the division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development does not come within the definition of subdivision as defined by this Chapter, a description of such land division shall be filed with the Clerk-Administrator who shall submit copies of such division to the City and County Engineer. No building permit shall be issued until said description has been received by the Planning Commission.

1150.02. Simple Lot Split. To facilitate the transfer of land between adjoining property owners where such transfer does not create additional building sites as defined in Chapter 10 of this Code, and where the resultant parcels meet the minimum zoning district requirements, the platting requirements of this Chapter may be waived by the Zoning Administrator upon compliance with the following procedures.

Subd. 1. Application Information. The subdivider shall provide the following information as part of the application:
A. A legal description of the parcel proposed to be transferred;
B. A certified survey at the discretion of the zoning administrator if any portion of the proposed lot to be split or the adjacent lots are described by metes and bounds descriptions.
C. The payment of a fifty dollar ($50.00) application fee.

Subd. 2. Planning Commission or Council Approval Not Required. Where the Zoning Administrator determines that the resultant parcels meet the minimum zoning district requirements, no Planning Commission or City Council review shall be required and transfer of title may be by metes and bounds description.

Subd. 3. Variances from Zoning Districts Standards to Require Review. Where the Zoning Administrator determines that the resultant parcels do not meet the minimum zoning district requirements, the proposed lot split shall be submitted to the Planning Commission with such supplemental information required by Subsection 1110.04 of this Chapter as may be determine by the Planning Commission or Zoning Administrator to be necessary for the proper evaluation of the application and variances necessitated by the lot split. Upon approval by the Planning Commission and City Council of the lot split and any required variances, transfer of title may be by metes and bounds description.

Subd. 4. Recording of Restrictions on Subsequent Transfers. To assure that minimum zoning requirements are maintained, the Zoning Administrator or the City Council may record or require the subdivider to record restrictions on subsequent transfers of all or part of the resultant parcels.

Subd. 5. Platting. Nothing in this Subsection shall prevent the subdivider from platting the simple lot split. Plat for simple lot splits shall conform to the requirements of Subsection 1150.03 of this Section.

1150.03. Minor Subdivisions. Where the combination or division of lots of record in which the resultant parcels meet the minimum zoning district requirements for buildable sites as defined in Chapter 10 of this Code, do not involve the creation or vacation of public right-of-ways, and create
five (5) or less new parcels, certain requirements of this Chapter may be waived if the City Council, following consideration by the Planning Commission, so determines, and following compliance with the following procedures.

**Subd. 1. Information.** The subdivider shall provide the following information:

A. A legal description of the proposed subdivision;

B. A certified survey, prepared by a licensed surveyor, conforming to the requirements of Subsection 1140.04, subd. 1A, items 2,3,4,5,6 and 8 and subd. 1B, items 1-5, all of this Chapter;

C. Or, at the discretion of the subdivider, a Preliminary Plat conforming to the requirements of Subsection 1110.04, subd. 1A and subd. 1B, items 1 - 5 of this Chapter, and a Final Plat conforming to the requirements of Subsection 1110.04, subd. 2 of this Chapter;

D. Such other subdivision information required by Subsection 1110.04 as may be determined by the Planning Commission or Zoning Administrator to be necessary for the proper evaluation of the subdivision application.

**Subd. 2. Subdivision Design Standards.** Prior to approval of the Final Plat or transfers of any lots by metes and bounds description, the subdivider shall provide, as required by Section 1120 of this Chapter, for the installation of any improvements deemed by the City Council to be necessary for the proper development of the property in the proposed subdivision.

**Subd. 3. Transfer of Title.** Upon approval of the subdivision, transfer of title and the process of subdivision may be, in the case of subdivision 1C of this Subsection, by filing of a Final Plat and reference thereto.

**Subd. 4. Administrative Fee.** The payment of a seventy-five dollar ($75.00) administrative fee to cover the costs of reviewing the information provided for in subdivision 1 of the Subsection.
Section 1160 - Parks, Open Space and Natural Features

1160.01. Identified Park Areas. Where a proposed park, playground or open space is identified on the Community Development Plan and that area is located in whole or in part on a subdivision, the Planning Commission shall require that such area or areas be shown on plats in accordance with the requirements specified in this Section. Such area or areas shall be dedicated to the City by the subdivider if the Council approves such dedication.

1160.02. Suitable Park Sites. The Planning Commission shall require that plats show sites of a nature that would be suitable for park, playground or other recreational development. The Planning Commission may require the developer satisfactorily grade any such recreation areas shown on the plat.

1160.03. Required Land For Public Use. In all new subdivisions, a reasonable portion of the gross area may be required to be dedicated to the public for use as parks, recreational facilities, playgrounds, trails, wetlands, or open space. If the subdivision is too small for practical dedication of public land or if no land in the subdivision is suitable for such use, the subdivider may be required to pay a fee as set forth in the City’s fee schedule. The City may also choose to accept a payment of cash equivalent to the value of the reasonable land portion from the subdivider in lieu of the dedication.

1160.04. Dedication During First Plat. If a new subdivision is designed to be platted in several additions, all land to be dedicated for public use, except streets, alleys or easements other than those leading to such sites shall be dedicated at the time of the platting of the first addition.
Section 1170 - Administration and Enforcement

1170.01. Administration.

   **Subd. 1. Zoning Administrator.** The Zoning Administrator shall administer the provisions of this Chapter.
   **Subd. 2. Appeals.** All appeals applying to the terms of this Chapter shall be made to the City Council acting as the Board of Adjustment and Appeals and subsequently may be appealed to the District Court.

1170.02. Zoning Compliance Permits. No zoning compliance permit shall be issued by any governing official for the construction of any building, structure or improvement on any land henceforth subdivided until all requirements of this Chapter have been fully complied with.

1170.03. Modifications, Exceptions and Variances.

   **Subd. 1. Hardship.** The City may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with these regulations would cause exceptional and undue hardship provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variations from the requirements of this Chapter in specific which, in its opinion, do not affect the Comprehensive Plan or the intent of this Chapter. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons which justify the modifications. The Council may approve variances from these requirements in specific cases which in its opinion meets the above requirements and do not adversely affect the purposes of this Chapter.

   **Subd. 2. Applicability.** Nothing herein shall be so construed as to direct or imply that these regulations apply only to residential subdivisions. All subdivisions, be they commercial, industrial, public land use, or otherwise, shall be a subdivision regardless of the proposed land use if falling within the definition of a subdivision as defined herein.

   **Subd. 3. Easements.** All easements required for public purposes shall be provided at locations approved by the Council. Said easements may be for utilities, drainage, flood plain protection, lakeshore access, walking trails, etc. However, all easements other than utility and drainage easements must be conveyed and recorded at the County Recorder prior to Plat approval. No Plat shall be approved that may for any reason be detrimental to local, county or regional utility plan. Oversizing of utilities to provide future service for more intense development of the land or to provide future service to other areas may be required.

1170.04. Fees. The City Council shall determine by ordinance the fee and collection procedure for subdividing. Subdivision fees shall be set out in Appendix I to the City Code.

1170.05. Other Provisions.
Subd. 1. Prevention of Violations. In the event of a violation or a threatened violation of this Chapter, the City Council, or any member of the Council, in addition of other remedies, may seek to institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation, or threatened violation, and it shall be the duty of the City Attorney to institute such action.

Subd. 2. Mandamus Proceedings. Any tax payer or citizen of the City may institute mandamus proceedings in District Court to compel specific performance by the proper officials or official of any duty required by this Chapter.
CHAPTER 12
EMERGENCY SERVICES

1200.01. Charges for Emergency Services. The City of Blue Earth may impose a reasonable service charge for emergency services, including fire, rescue, medical and related services provided for by the City or contracted for by the City. The Emergency Services fee shall be set in the City’s fee schedule, as periodically set by resolution of the Council, and is subject to any limitation imposed by State law. Each service will have its own individual fee.

1200.02. Collection of Fees. If a service charge submitted by the City to an individual or business remains unpaid 30 days after notice of delinquency is postmarked to the recipient of the service, or the recipient’s representative or estate, the City, or its contractor on behalf of the City, may use any lawful means allowed to a private party for the collection of an unsecured delinquent account. Unpaid accounts will be considered delinquent 30 days after the original invoice has been postmarked, and notice of delinquency will be sent to the delinquent party on the 31st day.

1200.03. Assessment Against Holders of Real Property. The City of Blue Earth may impose an assessment upon property taxes for any unpaid charges for emergency services against the owners real property located within the legal limits of the City of Blue Earth. The City shall certify to the County Auditor, on or before Oct. 15 for each year, any unpaid emergency service charges which shall then be collected together with property taxes levied against the property. A charge may be certified to the Auditor only if, on or before September 15, the City has given written notice to the property owner of its intention to certify the charge to the Auditor. All emergency services assessments shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

1200.04. Scope of Power. The powers conferred by this Chapter of the City Code of the City of Blue Earth are in addition and supplemental to the powers conferred by and other City or State law allowing the City to impose a service charge, tax assessment, or a collection fee for any service provided by the City or contracted for by the City. The City reserves the right to amend by Ordinance all Sections of this Chapter, specifically the listing of additional emergency services.
CHAPTER 13
LOCAL SALES AND USE TAX

Section 1. Authority. Pursuant to the laws of Minnesota for 2019, chapter 6, article 6, section 14, the Minnesota Legislature has authorized the City of Blue Earth to impose a local sales and use tax to provide revenues to pay the costs of collecting and administering the tax to the commissioner of revenue of the state of Minnesota and to finance the capital and administrative costs related to the funding of designated projects as defined in the laws of Minnesota for 2019, chapter 6, article 6, section 14 and approved by the voters at the November 6, 2019 referendum.

Section 2. Definitions. For purposes of this chapter, the following words, terms, and phrases have the meanings given them in this section unless the language or context clearly indicates a different meaning is intended.

(a) City. “City” means the City of Blue Earth, Minnesota.

(b) Commissioner. “Commissioner” means the commissioner of revenue of the state of Minnesota or a person to whom the commissioner has delegated functions.

(c) Designated projects. “Designated projects” means financing the capital and administrative costs of constructing and funding sewer plant improvements, street reconstruction projects, and recreational amenities as authorized by the Minnesota Legislature in the laws of Minnesota for 2019, chapter 6, article 6, section 14 and approved by the voters at the November 6, 2019 referendum.

(d) State sales and use tax laws and rules. “State sales and use tax laws and rules” means those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including Minnesota Statutes, chapters 270C, 289A, 297A, and Minnesota Rules, chapter 8130, as amended from time to time.

Section 3. Local sales and use tax imposed; amount of tax; coordination with state sales and use tax laws and rules. A local sales tax is imposed in the amount of 0.5 percent on the gross receipts from sales at retail sourced within city limits which are taxable under the state sales and use tax laws and rules. A local use tax is imposed in the amount of 0.5 percent on the storage, use, distribution or consumption of goods or services sourced within city limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local sales and use tax imposed by this chapter. The local sales and use tax imposed by this chapter shall be collected and remitted to the commissioner on any sale or purchase when the state sales tax must be collected and remitted to the commissioner under the state sales and use tax laws and rules and is in addition to the state sales and use tax.
Section 4. Effective date of tax; transitional sales. Except as otherwise provided herein, the local sales and use tax imposed by this chapter shall apply to sales and purchases made on or after October 1, 2019. The local sales and use tax imposed by this chapter shall not apply to:

(a) The gross receipts from retail sales or leases of tangible personal property made pursuant to a bona fide written contract, which unconditionally vests the rights and obligations of the parties thereto, provided that such contract was enforceable prior to October 1, 2019, and that delivery of the tangible personal property subject thereto is made on or October 1, 2019.

(b) The gross receipts from retail sales made pursuant to a bona fide lump sum or fixed price construction contract, which unconditionally vests the rights and obligations of the parties thereto and which does not make provision or allocation of future taxes, provided that such contract was enforceable prior to October 1, 2019, and that delivery of the tangible personal property used in performing such construction contract is made before April 1, 2020.

(c) The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after October 1, 2019, but the local sales and use tax imposed by this chapter shall apply on the first billing period not including charges for services furnished before October 1, 2019.

(d) Lease payments for tangible personal property and motor vehicles that includes a period before and after October 1, 2019, but the local sales and use tax imposed by this chapter shall apply on a prorated basis to lease payment amounts attributable to that portion of the lease payment period on or after October 1, 2019 and on the entire lease payment for all lease payment periods thereafter.

Section 5. Tax Clearance; Issuance of Licenses.

(a) The city may not issue or renew a license for the conduct of a trade or business within the city if the commissioner notified the licensing division of the city that the applicant owes delinquent city taxes as provided in this chapter, or penalties or interest due on such taxes.

(1) City taxes include sales and use taxes provided in this article. Penalties and interest are penalties and interest due on taxes included in this definition.

(b) Delinquent taxes does not include a tax liability if: (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

(c) Applicant means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership.

(1) A copy of the notice of delinquent taxes given to the licensing division of the city shall also be sent to the applicant taxpayer. In the case of renewal of a license,
if the applicant requests in writing, within 30 days of receipt of the notice of hearing, then, a contested hearing shall be held under the same procedures as provided in Minn. Stat. 270A for the state sales and use tax imposed under Minn. Stat. 297A; provided further that if a hearing must be held on the state sales and use tax, hearings must be combined.

Section 6. Deposit of revenues; costs of administration; termination of tax.

(a) All of the revenues, interest, and penalties derived from the local sales and use tax imposed by this chapter collected by the commissioner and remitted to the city shall be deposited by the city finance director in the city treasury and shall be credited to the fund established to pay the costs of collecting the local sales and use tax imposed by this chapter and to finance the capital and administrative costs directly related to completing the designated projects.

(b) The local sales and use tax imposed by this chapter shall terminate at the earlier of:
(1) Twenty years; or (2) when the City Council determines that Five million dollars, plus an amount sufficient to pay the costs related to issuing bonds and interest on the bonds has been received from the local sales and use tax imposed by this chapter to pay for all the capital and administrative costs directly related to completing the designated projects. Any funds remaining after payment of all such costs and retirement or redemption of the bonds shall be placed in the general fund of the city. The local sales and use tax imposed by this chapter may terminate at an earlier time if the City Council so determines by ordinance.

Section 7. Agreement with the commissioner. The city may enter into an agreement with the commissioner regarding each party’s respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the local sales and use tax imposed by this chapter. Any such agreement shall not abrogate, alter, or otherwise conflict with the state sales and use tax laws and rules, this ordinance, or laws of Minnesota for 2019, chapter 6, article 6, section 14.

Section 8. Summary publication. The following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance pursuant to Minnesota Statutes section 412.191:

Pursuant to a voter-approved referendum, the city is authorized to and will impose a local sales and use tax of 0.5 percent on retail sales made after October 1, 2019 to be used to fund certain designated projects related to financing the capital and administrative costs of constructing and funding sewer plant improvements, street reconstruction projects, and recreational amenities.

Section 9. This Ordinance shall be in full force and effect from and after its passage and publication.