

Chapter 8

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***Charter reference(s)**--Authority to license and regulate persons and businesses, § 1.02.

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ARTICLE I. IN GENERAL**Sec. 8-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air contaminant means any gaseous matter or particulate matter which, when present in the outdoor atmosphere, contributes to a condition of air pollution, including, but not limited to, gases, vapors, mists, dust, soot, smoke, fumes, fly ash, cinders and odors.

Air pollution means the presence in the atmosphere of one or more air contaminants, or combinations thereof, which is or may tend to be injurious to human health or welfare, or injurious to human, plant or animal life or property, or that interferes with the comfortable enjoyment of life or property or the conduct of business.

Amusement arcade means a business at one location devoted primarily to the operation of mechanical or electrical amusement devices and open for public use and participation.

Amusement device means a mechanical or electrical machine which, upon the insertion of a coin, token or slug, operates or may be operated for use as a game, contest or amusement of any description, or which may be used for any such game, contest or amusement, and which contains no automatic pay-off device for the return of money, coins, checks, tokens or merchandise, or which provides for no such devices, and shall include pinball machines, mechanical miniature pool tables, bowling machines, shuffleboards, electric rifle or gun ranges, miniature mechanical devices and games or amusements patterned after baseball, basketball, hockey, tennis, soccer, jukeboxes and similar games, which may be used solely for amusement and not as gambling devices.

Atmosphere means the air that envelopes or surrounds the earth.

Billboard means a sign which is used for the primary purpose of selling space advertising a product, service, business or event which is not offered for sale or rent or does not take place on the premises on which the sign is located.

Boardinghouse means a food and beverage service establishment where food or beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

City property means any property owned by the city, including, but not limited to, municipal buildings, parks or city rights-of-way.

Commercial entertainment establishment means an amusement arcade, when the arcade is the principal operation of the business establishment, a roller skating rink or a movie theater.

Construction debris container means any roll-off four-sided steel container for temporary storage of construction and demolition materials.

Construction demolition materials means any waste building materials, packaging and rubble resulting from the construction, repair and demolition of buildings.

Courtesy bench means any bench or seat located on any public sidewalk along a street or thoroughfare or on any public right-of-way along a street or thoroughfare or on private property dedicated to public use or authorized for public use by the owner of such bench.

Dog kennel means any place where four or more dogs over the age of nine weeks are kept for a period longer than 24 hours, or any business engaged in the breeding, health care, boarding or sale of dogs.

Emission means the discharging, releasing, circulating, letting off, raising, liberating, freeing or sending forth into the atmosphere any air contaminant or combinations thereof.

Enclosed parking facility means an enclosed building or structure, or part of a building or structure, used for parking, storage or maintenance of motor vehicles.

Food or beverage establishment means any building, room, stand, enclosure, vehicle, space, area or other place where food or beverages are manufactured, prepared, stored, distributed, served, sold or offered for sale to the public at retail, regardless of whether there is a charge for the article, or otherwise provides foods or beverages, or both, for human consumption.

Food vending machine means food vending machines as defined in M.S.A. § 28A.09.

Garbage means animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Health authority means the duly appointed health officials of the city.

Health department, health officer, state board of health and board mean, if used at any place in this chapter and in the requirements adopted by reference, the health authority of the city.

Health/sports establishment means a business, the primary purpose of which is health and fitness, of which massage therapy may be a subsidiary and for which the financial records of the establishment are at all times available to the city for inspection.

High impact sexually-oriented business means any business with materials or entertainment provided to the public which are principally related to sexual stimulation or gratification other than a limited impact sexually-oriented business. Examples of a high impact sexually-oriented business include the following:

- (1) A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished, exhibited or otherwise provided for use or entertainment on business premises;
- (2) A business where specified sexual activities are explicitly, verbally described or shown;
- (3) A business where specified anatomical areas are explicitly, verbally described or shown;
- (4) A business providing sexually-oriented materials for off-site use or entertainment, which has a separate area but does not meet the size of other restrictions to qualify as a limited impact sexually-oriented business; and

- (5) A business providing sexually-oriented materials for off-site use or entertainment where the sexually-oriented materials are dispersed within the business rather than isolated in a separate area.

Hotel and *motel* mean a building, structure, enclosure, or any part of such building, structure or enclosure used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

Limited impact sexually-oriented business means a business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided to the public and which meets the following restrictions:

- (1) All sexually-oriented materials must be provided for use or entertainment off the business premises only;
- (2) All sexually-oriented materials must be provided from a separate area to which persons under the age of 18 years are prohibited access;
- (3) The separate area may not exceed a maximum of 20 percent of the retail floor area of the establishment, or 300 square feet, whichever is less;
- (4) No person outside the separate area shall be able to perceive or observe and sexually-oriented materials at any time, including when someone is entering or exiting the separate area, shopping or purchasing sexually-oriented materials;
- (5) A sign must be displayed on the entrance to the separate area which shall read: "No person under the age of 18 is allowed in this area." The sign letters shall be a minimum of two inches high; and
- (6) The entry into the separate area shall be visible to an employee of the business at all times.

Lodging means the furnishing for 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) calendar days or more. (Ord. No. 2396-10- 3-1-11)

Lodging establishment means a building, structure, enclosure, or any part of such building, structure or enclosure used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.

Massage means the rubbing, stroking, kneading, tapping or rolling of the body of another with the hands or objects for the exclusive purpose of physical fitness, health care referral, relaxation, beautification and for no other purpose.

Massage therapist means a person who practices or administers massage therapy. (Ord. No. 2381-10, 7-01-10)

Massage therapy establishment means a place providing to the public at large massage services, other than a hospital, sanatorium, rest home, nursing home, boarding home, or other institution licensed under the provisions of M.S.A. §§ 144.50--144.69. The definition does not include the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry; and persons duly licensed in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, licensed nurses and athletic directors and trainers.

Multilevel parking facility means a building or structure, or part thereof, in which a structural level other than a slab on grade is used for parking, storage, or maintenance of motor vehicles.

Off-site consumption means any limited impact sexually-oriented business or any high impact sexually-oriented business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided for use or entertainment off the business premises only.

On-site consumption means any high impact sexually-oriented business where sexually-oriented materials or entertainment, which are principally related to sexual stimulation or gratification, are offered on the business premises.

Operator means a person who provides lodging to others, or any office, agent or employee of such person. (Ord. No. 2396-10, 3-1-11)

Pawnbroker means a person who loans money on deposit or pledge of personal property or other valuable thing; who deals in the purchasing of personal property or other valuable thing on condition of selling such personal property or other valuable thing back again at a stipulated price; or who loans money secured by chattel mortgage or on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker business includes buying personal property previously used, rented, or leased, the provisions of this chapter shall be applicable. Any bank, savings and loan association, or credit union shall not be deemed a pawnbroker for purposes of this chapter.

Peddler means any person with no fixed place of business who goes from house to house carrying or transporting goods, wares or merchandise and offering or exposing such goods, wares or merchandise for sale, or making sales and deliveries to purchasers of such goods, wares or merchandise.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Pool means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use including special purpose pools and wading pools.

Private residential pool means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. A private residential pool is not a pool used as part of a business.

Process means any action or operation which:

- (1) By physical action results in a change in location, form, or physical properties of a material;
- (2) By chemical action results in a change in chemical composition, chemical properties, or physical properties of a material; or
- (3) Creates or establishes a condition or situation which produces air contaminants.

Public sanitary facility means a pool, whirlpool, sauna (dry or steam), public bath or shower, tanning beds or similar facility.

Public swimming pool means any pool, other than a private residential pool, intended to be used collectively by numbers of persons for swimming and bathing, operated by any person, whether that person is the owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use. A public swimming pool includes, but is not limited to, pools operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, apartment building, club, condominium, hotel, manufactured home park, or political subdivision.

Refuse means all wastes (except body wastes) including, but not limited to, rubbish, tin cans, papers, Christmas trees, cardboard, grass clippings, ashes, glass jars and bottles, and wood normally resulting from the operation of households or business establishments, but not including garbage, sod, dirt, rocks, cement, trees, leaves, hedge or tree trimmings, or anything one person could not lift easily.

Residential garbage/yard sale means any sale conducted at a residential premises where the property sold consists only of items owned by the owner or renter of the premises at which the sale takes place or by friends of such owner or renter, and where the sale is conducted by the owner of the premises or friends, not by an agent or any other person to whom a commission or fee is paid.

Right-of-way means the property owned by the city for the construction and maintenance of the roadway and the improvements of the roadside.

Roller skating rink means any room, place, or space open to public patronage where facilities are available for roller skating, wherein the public may participate, and at which admission may be had by the public by payment, directly or indirectly, of any admission fee or price, including a fee for membership in a club, the price of food, or payment for any other form of amusement offered in or from licensed premises.

Safety manual means the current edition of the Temporary Traffic Control Zone Layouts Field Manual being part of the Minnesota Manual on Uniform Traffic Control Devices (MnMUTCD).

Sauna means any public facility used for the purpose of bathing, reducing or relaxing, utilizing steam or heat as a cleaning, reducing or relaxing agent.

Self-service merchandising means open displays of tobacco, tobacco products, or tobacco related devices where any person shall have access to the product without the assistance or intervention of an employee of the premises maintaining the merchandising. Self-service merchandising shall not include vending machines.

Sexually-oriented business means any limited impact sexually-oriented business or any high impact sexually-oriented business.

Sexually-oriented materials means visual, printed or aural materials and other objects or devices which:

- (1) Contain, depict or describe specified sexual activities or specified anatomical areas;
- (2) Are marked for use in conjunction with, or are primarily used only with or during the specified sexual activities described in subsections (2), (3) or (6) of the definition of *Specialized sexual activities* or as part of the binding, fettering, or other physical restraint described in subsection (5) of the definition.

Solicitor means any person who goes from house to house, business to business, or any kind of place to place movement for the purpose of soliciting or taking or attempting to take orders for the purchase of any goods, wares, or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for delivery in the future, or orders for the performance of maintenance or repair services in or about the home or place of business, such as furnace cleaning, roof repair or blacktopping. It also means any person, except for a city resident canvassing his or her neighborhood, who canvasses, solicits or calls from house to house for contributions or support for any charitable, religious, civic, educational, philanthropic, social service, welfare, or organization.

(Ord. No. 2381-10, 4-30-10)

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders and rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

Solid waste collector means any person who shall offer to, or engage in the collection of solid waste from any public or private institution, commercial establishment, or residential dwelling located within the city.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a state of sexual arousal, whether or not completely or opaquely covered.

Specified sexual activities means:

- (1) Actual or simulated sexual intercourse of any kind involving two humans, or one human and an animal or object;
- (2) Actual or simulated masturbation;
- (3) Actual or simulated sadism or masochism;

- (4) Actual or simulated sexual stimulation of any kind;
- (5) Situations involving a person who is nude, clad in undergarments, or in a revealing costume, and who is engaged in activities involving binding, fettering or other physical restraint of that or another person; and
- (6) Sexually-oriented touching of an animal by a human.

Special purpose pool means a pool intended to accommodate a use other than normal swimming, diving, or wading. The term "special purpose pool" includes, but is not limited to, spa pools, pools used for water therapy, dedicated plunge pools, flume water slides and wave pools.

Tanning facility means a location, place, area, structure, or business or a part thereof which provides consumers access to tanning equipment. The term "tanning facility" includes, but is not limited to, tanning, salons, health clubs, apartments, or condominiums regardless of whether a fee is charged for access to the tanning equipment.

Temporary outdoor retail sales means the outdoor sale of goods or merchandise to the general public for personal or household consumption at a single location for less than 180 days, excluding residential garage/yard sales.

Tobacco and tobacco products mean any substance or item containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco or chewing tobacco and other forms of tobacco leaf prepared in such a manner as to be suitable for chewing, sniffing, or smoking.

Tobacco related devices means any tobacco product as well as any pipe, rolling papers, or other devices used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Tobacco vending machine means any type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine.

Transient merchant means any person who engages in, does, or transacts any temporary and transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares and merchandise; and who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, vacant lot, or railroad car for the exhibition and sale of such goods, wares and merchandise. The term "transient merchant" does not include a seller or exhibitor in a firearms collector show involving two or more sellers or exhibitors.

Wading pools means any pool used or designed to be used exclusively for wading or bathing and having a maximum depth of 24 inches.

(Ord. No. 2181-00, § 4(16-102), 11-6-2000; Ord. No. 2198-01, § 1, 5-21-2001; Ord. No. 2381-10, 04-30-2010; 2396-10, 03-01-2011)

Cross reference(s)--Definitions generally, § 1-2.

Secs. 8-2--8-30. Reserved.

ARTICLE II. LICENSES

DIVISION 1. GENERALLY

Sec. 8-31. Application of article.

The general provisions provided under this article shall apply to all licenses required under this chapter unless otherwise provided under the applicable licensing criteria.
(Ord. No. 2181-00, § 4(16-101), 11-6-2000)

Sec. 8-32. Required.

It is unlawful for any person to engage in any business or activity for which a license or permit is required by any provision of this chapter or any other law or ordinance of the city without first obtaining the license or permit required under this chapter.
(Ord. No. 2181-00, § 4(16-103), 11-6-2000)

Sec. 8-33. Fees.

Except as otherwise provided in this chapter, all fees for licenses under this chapter, including investigation fees, shall be set by ordinance of the city council and listed as appendix A of this Code. New fees called for by any ordinance subsequently adopted may be adopted by ordinance of the council at second reading and codified into appendix A at the time of the next annual review by the council. In the case of contractor, business and animal licenses, license applications received within the last 30 days of the license term will be issued a license for the following year in the fee amount set for the following calendar year. New business licenses issued licenses between July 1 and December 1 shall be charged a license fee equal to one-half the annual fee set forth in Appendix A.
(Ord. No. 2181-00, § 4(16-104), 11-6-2000; Ord. No. 2381-10, 4-30-2010; Ord. No. 2393-10, 11-12-10)

Sec. 8-34. Refunds.

No part of a paid license fee shall be refunded, except as otherwise provided in this chapter or by state law.
(Ord. No. 2181-00, § 4(16-105), 11-6-2000)

Sec. 8-35. Applications.

(a) All applications for licenses under this chapter shall be made upon forms furnished by the city for such purpose. All information required on the application form must be completed by the applicant for the application to be considered by the city. All applications for a license under this chapter shall be signed and sworn to. If the application is that of a natural person, the application shall be signed and sworn to by such person; if that of a corporation, by an officer of the corporation; if that of a partnership, by one of the general partners of the partnership; and if that of an unincorporated association, by the manager or managing officer of the unincorporated association.

(b) All initial applications which require an investigation shall be accompanied by payment of a nonrefundable investigation fee which fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code, to cover the cost of the investigation, if required by the specific provisions of the individual license.

(c) All applications shall be accompanied by the required fee and any and all other information or documentation required for issuance of the specific license.

(d) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement or willful omission will result in automatic denial of the license, or if the license has already been issued, will render any license or permit void, and shall constitute an automatic revocation of the license without further action by the city council.

(e) The city may investigate the truth of statements made in an application as deemed necessary. The city may enlist the aid of the police department for such investigation.
(Ord. No. 2181-00, § 4(16-106), 11-6-2000)

Sec. 8-36. Refusal, suspension, revocation and reinstatement.

Except as otherwise provided in this chapter, the city may refuse, suspend, revoke and reinstate any license under this chapter as follows:

- (1) The city may refuse to grant a license or license renewal and may suspend or revoke any license at any time, for any reasonable cause, including failure of an applicant or licensee to comply with provisions of this Code or other applicable federal, state or local laws or regulations.
- (2) Any applicant, within ten days of notice of denial, suspension or revocation of a license, may request in writing an administrative hearing before the city manager. The city manager shall promptly issue a written decision in the matter. The city manager's decision may be appealed to the city council by filing a written appeal to the city clerk within ten days of receiving written notice of the city manager's decision.
- (3) The city council may appoint a committee of the city council or an independent hearing officer to hear the matter, report findings of fact and a recommendation of disposition to the city council. Hearings on the appeal shall be open to the public and the licensee or applicant shall have the right to appear and be represented by legal counsel and to offer evidence in such person's behalf. At the conclusion of the hearing, the city council shall make a final decision.
- (4) If a license is reinstated following suspension or revocation, the applicant shall complete a new license application, and pay a reinstatement fee in addition to the current license fee. Such fees shall be set from time to time by the city and a schedule of such fees listed in Appendix A to this Code. As a further condition of reinstatement, the licensee shall reimburse the city for all law enforcement costs, legal fees, investigations, inspections or other professional fees incurred due to the licensee's violation of applicable laws, ordinances, regulations and conditions of the license.

(Ord. No. 2181-00, § 4(16-107), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Sec. 8-37. Insurance.

(a) Proof of insurance in effect for the period of a license under this chapter may be required by the city before certain specific licenses are issued. Such insurance must be maintained throughout the entire license term. The policies of insurance shall provide that the policies may not be canceled by the insurer except upon notice to the city. In case of cancellation or expiration of such insurance, such license shall be automatically suspended.

(b) The city reserves the right to require additional insurance for activities located or occurring on city property.

(Ord. No. 2181-00, § 4(16-108), 11-6-2000)

Sec. 8-38. Periods of effectiveness; termination.

(a) Licenses issued under this chapter shall terminate only by expiration or revocation.

(b) All licenses issued under this chapter shall terminate on December 31 of the calendar year in which such license is issued unless a different termination date with respect to the individual license category is set forth in this chapter.

(Ord. No. 2181-00, § 4(16-109), 11-6-2000)

Sec. 8-39. Renewal.

An application for the renewal of an existing license under this chapter shall be made prior to the expiration date of the license, and shall be made on a form provided by the city for such purpose. If, in the judgment of the city, good and sufficient cause is shown by the applicant for the applicant's failure to submit a renewal application before the expiration of an existing license, the city may grant the renewal application if the other provisions of this chapter are complied with.

(Ord. No. 2181-00, § 4(16-110), 11-6-2000)

Sec. 8-40. Duplicates.

Duplicates of all original licenses issued under this chapter may be issued by the city upon the licensee's signed statement that the original has been lost, and upon payment of the currently required fee for issuance of the duplicate which fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code. All duplicate licenses shall be clearly marked "duplicate."

(Ord. No. 2181-00, § 4(16-111), 11-6-2000)

Sec. 8-41. Violation; penalty.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to punishment and penalties as set forth in section 1-13.
(Ord. No. 2181-00, § 4(16-112), 11-6-2000)

Secs. 8-42--8-60. Reserved.**DIVISION 2. CONTRACTORS****Subdivision I. In General***Sec. 8-61. Application of division.**

The provisions of this subdivision shall apply to all contractor licenses required under this division, except as otherwise provided under the specific contractor licensing provision.
(Ord. No. 2181-00, § 4(16-201(intro. ¶)), 11-6-2000)

Sec. 8-62. License required.

No person may perform any work for which a license is required under this division, prior to issuance of a contractor's license. No permit will be issued to any person for work requiring a license until such license is issued. A new license application must be made by the contractor before the license expiration date when work to be performed shall extend past the license expiration and into the next license calendar year. If a contractor's license expires or is revoked during the course of work occurring under a permit, or if a permit was inadvertently issued before the required license was obtained, the city may suspend or void the permit until a license is issued or reinstated.

(Ord. No. 2181-00, § 4(16-201A.), 11-6-2000)

Sec. 8-63. Installation by contractor.

It shall be unlawful for any person to knowingly hire or otherwise engage any person who is not licensed under this division to perform work within the city which requires a license under this division.

(Ord. No. 2181-00, § 4(16-201B.), 11-6-2000)

Sec. 8-64. License term.

Except as otherwise provided in this chapter, all contractor licenses are issued for the calendar year and are effective from the date of issuance through December 31 of the year in which the license is issued. For license applications received within the last 30 days of a calendar year, the license issued will be effective from the date of issuance until December 31 of the following year.
(Ord. 2181-00, § 4(16-201C.), 11-6-2000)

***Cross reference(s)**--Buildings and building regulations, ch. 6.

Sec. 8-65. Application.

Contractors must submit an application and fee, which shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code, for the annual license each year that work is occurring within the city as required by this division. The license application may be submitted at any time within the year but before a permit is issued or work occurs.

(Ord. No. 2181-00, § 4(16-201D.), 11-6-2000)

Sec. 8-66. Fees.

Contractor license applications received within the last 30 days of the license term will be issued a license for the following year in the amount of the fee set for the following calendar year, which fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code.

(Ord. No. 2181-00, § 4(16-201E.), 11-6-2000)

Sec. 8-67. Examination fees.

Applicants requesting a contractor license which requires a competency examination must pay the examination fee, which shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code, before the examination is administered. The fee shall be nonrefundable.

(Ord. No. 2181-00, § 4(16-201F.), 11-6-2000)

Sec. 8-68. Insurance.

(a) Except as otherwise required in this Code, applicants and licensees shall maintain comprehensive general liability insurance provided by an insurance carrier authorized to do business in the state, which insurance rates shall be set from time to time by the city and a schedule of such insurance rates is listed in appendix A to this Code. Such insurance shall remain effective for the term of the license.

(b) The license applicant shall deliver to the city a certificate of insurance, which provides that the insurance may not be canceled by the insurer, except upon 30 days' prior written notice to the city. If such insurance is terminated or not renewed with another policy conforming to the requirements of this section, the license shall be automatically suspended until the insurance has been replaced and a new certificate of insurance is filed with the city.

(c) The licensee is responsible to provide the city with a current certificate of insurance if the policy is renewed during the term of the license.

(Ord. No. 2181-00, § 4(16-201G.), 11-6-2000)

Secs. 8-69--8-85. Reserved.

*Subdivision II. Reserved****Secs. 8-86--8-110. Reserved.***Subdivision III. Mechanical Contractor***Sec. 8-111. License required.**

Any person or business engaging in the business of installing, repairing or altering any mechanical equipment or systems requiring a permit under the state mechanical code, M.S.A. §§ 16B.59--16B.75, must be licensed as a mechanical contractor by the city. In the case of a business, only the business must be licensed and not each individual employee performing the work requiring a mechanical contractor's license.

(Ord. No. 2181-00, § 4(16-203A.), 11-6-2000)

Sec. 8-112. Exemptions.

The following persons are exempt from the licensing requirements of this subdivision:

- (1) The owner-occupant of a one-family or two-family dwelling who is working on the owner-occupant's own dwelling.
- (2) Persons installing or working on process piping regulated under the state mechanical code.
- (3) Persons replacing or reconnecting gas stoves and clothes dryers to existing gas piping when not altering the existing gas piping.

(Ord. No. 2181-00, § 4(16-203B.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Sec. 8-113. Endorsements.

Mechanical contractor's licenses must carry an endorsement permitting the type of work the license holder may perform. A license may have more than one endorsement, providing proof of competency is established for each endorsement. An applicant for a license under this subdivision must obtain at least one of the following endorsements in order for a mechanical contractor's license to be issued by the city:

- (1) Conditioned air systems, includes refrigeration equipment up to and including five-ton capacity, gas burners up 400,000 Btu input and reconnection of gas piping due to replacement of such equipment;
- (2) Steam and hot water systems, includes gas burners up to 400,000 Btu input and reconnection of gas piping due to replacement of such equipment;
- (3) Refrigeration systems and equipment; or

***Editor's note--**Ord. No. 2205-01, § 1, adopted Sept. 4, 2001, deleted provisions formerly set out as subdiv. II of div. 2 of art. II of this chapter. Former, subdiv. II, §§ 8-86--8-92, pertained to contractor licenses for housing compliance inspectors and derived from Ord. No. 2181-00, § 4(16-202A--G, adopted Nov. 6, 2000.

- (4) Gas piping and fuel burning equipment.

(Ord. No. 2181-00, § 4(16-203C.), 11-6-2000)

Sec. 8-114. Competency.

A mechanical contractor's license will only be issued when the applicant provides proof of a certificate of competency issued by the city or employment of a person with a certificate of occupancy issued by the city for the endorsement in which they will be performing the work. The license holder must maintain competency or employ a competent person for the term of the license or the license endorsement will become void. If competency is lost through the competent person's termination of employment, the license holder must provide proof of competency or employment of a new competent person within 90 days after termination of employment of the competent person or the license endorsement will become void.

(Ord. No. 2181-00, § 4(16-203D.), 11-6-2000)

Sec. 8-115. Certificate of competency.

(a) Any person may obtain a certificate of competency for each or all of the mechanical contractor's license endorsements upon completion and passing of a competency examination provided by the city for each of the endorsements, and following payment of the examination fee, which shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code. The examinations will demonstrate the knowledge of codes and basic methods necessary for doing such work. An initial competency examination may be waived by the city for individuals that provide evidence of passing a competency testing program conducted by another governmental entity, where the testing program is determined to be substantially similar to the city's testing program.

(b) The certificate of competency holder must renew competency every three years by providing to the city proof of continuing education in mechanical codes with the renewal application and renewal application fee. To renew a certificate of competency, the person holding competency must either complete a minimum of six hours of approved education or retake the competency test for each of the endorsements applied for. The continuing education must pertain to the competency being renewed, and may occur at any time during the competency term. Continuing education content must cover one or more of the following topics:

- (1) General principles of mechanical systems;
- (2) Equipment testing and analysis;
- (3) Mechanical codes and standards.

The continuing education requirement will be fulfilled by attending classes or seminars provided by trade organizations, public or private institutes of education, manufacturers, trade associations, independent testing and evaluation laboratories or governmental agencies. For individuals holding a certificate of competency with multiple competencies, the individual is not required to meet the minimum education requirement for each competency, a total of six hours of education relating to any and all competencies shall be sufficient, and payment of only one renewal fee for all competencies shall be required.

(c) A certificate of competency shall be valid for three calendar years following the year in which the certificate of competency was issued. Certificates of competency shall expire on December 31 of the third year of the issuance of such certificate of competency. If the holder of a certificate of competency completes the requirements for any additional competencies, the city will add the competency to the certificate with no additional fee. The addition of competencies within the term of a certificate of competency will not change the expiration date of the original certificate of competency.

(Ord. No. 2181-00, § 4(16-203E.), 11-6-2000)

Sec. 8-116. Gas piping and fuel burning equipment.

Any person installing, repairing or altering gas piping or fuel burning equipment for which a mechanical contractor's license with a gas piping and fuel burning equipment endorsement is required, must have a valid city certificate of competency for gas piping and fuel burning equipment issued to such person. The person must carry the certificate of competency when performing any work, and must present the certificate of competency upon request to any city representative. This requirement is in addition to any or all other licensing requirements and does not eliminate the need for a mechanical contractor's license.

(Ord. No. 2181-00, § 4(16-203F.), 11-6-2000)

Secs. 8-117--8-135. Reserved.

*Subdivision IV. Solid Waste Collector**

Sec. 8-136. License required.

Any person engaging in the business of solid waste collection within the city must first obtain a solid waste collector's license from the city.

(Ord. No. 2181-00, § 4(16-204A.), 11-6-2000)

Sec. 8-137. Vehicle identification.

The applicant for a solid waste collector's license must provide proof of insurance, worker's compensation and a current list of all vehicles which will operate within the city, including company vehicle identification numbers and license plate numbers for each vehicle. Throughout the license term, the licensee must notify the city of any additional vehicles which will be operating within the city under the solid waste collector's license.

(Ord. No. 2181-00, § 4(16-204B.), 11-6-2000)

***Cross reference(s)**--Solid waste management, ch. 22.

Sec. 8-138. Vehicle inspection.

Each vehicle identified by the applicant for a solid waste collector's license that performs collection of solid waste must be issued a solid waste collector vehicle decal by the city for each calendar year that the license is in effect. A decal fee for each vehicle identified on the applicant's list, which fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code, must be paid each calendar year before the license will be issued. No vehicle shall be used for collection of solid waste without a valid license decal. An applicant or licensee must permit, upon request by the city, city inspection of vehicles identified under the application or license for compliance with the requirements under this section. Vehicles must comply with minimum health and safety standards throughout the license term.

(Ord. No. 2181-00, § 4(16-204C.), 11-6-2000)

Sec. 8-139. Additional insurance required.

The contractor shall provide proof of automobile insurance through the term of his solid waste collector's license, including coverage for all owned and hired vehicles used for solid waste collection within the city. Limits of liability insurance should not be less than those rates as shall be set forth from time to time by the city and a schedule of such insurance rates is listed in appendix A to this Code. The policy of insurance shall provide full insurance to cover all of the contractor's operating exposure, including, but not limited to, the picking up of the materials and the operation of vehicles.

(Ord. No. 2181-00, § 4(16-204D.), 11-6-2000)

Sec. 8-140. Regulations adopted.

The following regulations shall apply to all solid waste collectors under the provisions of this subdivision:

- (1) Vehicles.
 - a. Vehicles used by solid waste collectors to transport solid waste over the streets and alleys of the city shall have a fully enclosed metal body which is tightly sealed and properly maintained, and such vehicles shall be operated to prevent offensive odors escaping from the vehicles, and solids or liquids from leaking, spilling, dropping or blowing from the vehicles.
 - b. Vehicles must be kept in good repair and in a clean and sanitary condition, and shall be subject to periodic inspection by the city.
 - c. Vehicles shall be equipped with brooms and shovels for use in sweeping up all solid waste spilled during collection or hauling.
 - d. Vehicles must carry the name and telephone number of the licensed solid waste collector on the exterior of the vehicle.
 - e. Vehicles must contain a tarp for use with a roll-off dumpster.

- (2) *Scattering of solid waste.* No person or a licensed solid waste collector shall permit or allow any of his employees to cast, spill, place, sweep or deposit anywhere within the city any solid waste in such a manner that such solid waste may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any other premises within the city.

(Ord. No. 2181-00, § 4(16-204E.), 11-6-2000)

Secs. 8-141--8-160. Reserved.

*Subdivision V. Tree Maintenance and Removal Contractor**

Sec. 8-161. License required.

Any person or company engaging in a business that maintains, removes or treats trees within the city must obtain a tree servicing, maintenance and removal contractor's license from the city.

(Ord. No. 2181-00, § 4(16-205A.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Sec. 8-162. Application.

The applicant for a tree servicing, maintenance and removal contractor's license must submit a completed application, provide proof of insurance and workers' compensation, a list of all vehicles which will be operating within the city, including license plate numbers and in-house vehicle identification numbers for such vehicles, and provide proof that at least one employee of the applicant is currently recognized by the International Society of Arboriculture (ISA) as a Certified Arborist at the time of the license application or renewal. Throughout the license term, the licensee must notify the city of any additional vehicles which will be operating within the city under the tree servicing, maintenance and removal contractor's license. Tree services must comply with American National Standards Institute (ANSI) Standard A300 when pruning or otherwise servicing trees on public or private property.

(Ord. No. 2181-00, § 4(16-205B.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Sec. 8-163. Vehicle decal.

Each vehicle operating in the city under a tree servicing, maintenance and removal contractor's license must have a valid city-issued decal identifying the licensed contractor affixed in a visible location to such vehicle.

(Ord. No. 2181-00, § 4(16-205C.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Sec. 8-164. Additional insurance required.

The tree service, maintenance and removal contractor shall provide proof of automobile insurance through the term of the license, including coverage for all owned and hired vehicles used for tree service, maintenance and removal within the city. Limits of liability insurance should be for not less than the amount that shall be set from time to time by the city and a schedule of such insurance rates is listed in Appendix A to this Code. The policy of insurance shall provide full insurance to cover all of the tree servicing, maintenance and removal contractor's operating exposure, including, but not limited to, the picking up of the materials and the operation of vehicles.

(Ord. No. 2181-00, § 4(16-205D.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

***Cross reference(s)**--Vegetation, ch. 34.

Sec. 8-165. Chemical treatment services.

If the applicant for a tree servicing, maintenance and removal contractor's license also provides chemical treatment services for trees, a copy of the applicant's Minnesota Department of Agriculture commercial pesticide applicator license must accompany the license application.

(Ord. No. 2181-00, § 4(16-205E.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Secs. 8-166--8-185. Reserved.

DIVISION 3. BUSINESSES

*Subdivision I. In General***Sec. 8-186. Applicability of division.**

The general provisions provided under this subdivision shall apply to all business licenses required under this division, except as otherwise provided under the specific business licensing provisions in this division.

(Ord. No. 2181-00, § 4(16-301(intro. ¶)), 11-6-2000)

Sec. 8-187. License required.

No person may operate a business for which a license is required under this division prior to issuance of the applicable business license.

(Ord. No. 2181-00, § 4(16-301A.), 11-6-2000)

Sec. 8-188. Payment of taxes on licensed premises.

(a) Any and all real estate taxes or special assessments levied against the property for which a license application is made under this division must be current before such license is issued or renewed.

(b) Upon receipt of evidence that such taxes or special assessments levied against any such premises have become delinquent during the term of a license under this division, the city manager shall notify the licensee of the delinquency and that all licenses issued for the premises shall be suspended 30 days after date of the notice unless such taxes and special assessments are paid and the county treasurer's receipt of such payment is delivered to the city manager. The license will remain suspended and all licensed activity must cease until such time that the taxes and special assessments are paid in full.

(c) The reinstatement of a license upon payment of delinquent taxes and assessments is conditioned upon the taxes and assessments being paid on time for the two year period following reinstatement. If this condition is not met and the taxes remain unpaid after the licensee receives a ten day notice of the delinquency from the city manager or designee, the license shall be considered revoked effective immediately. The revocation shall be final. The provisions of Section 8-36 relating to an administrative hearing and appeal to the city council shall not apply. No new business license for the same activity or to the same licensee shall be issued for a period of one year.

(Ord. No. 2181-00, § 4(16-301B.), 11-6-2000; Ord. No. 2361-08, 1-1-2009)

Sec. 8-189. Posting of license.

(a) Licenses under this division shall be posted within the licensed establishment in a visible and conspicuous location, and shall be made accessible to the public and city officials for inspection during reasonable and normal business hours. For licensees with multiple establishments operating under a common license, the posting location shall be at the establishment generating the primary amount of use.

(b) If a machine, vehicle or other device is required to be licensed in connection with the issuance of a business license under this division, the city may provide a sticker for the current license year, which sticker shall be affixed in a clearly visible location as specified by the city for each machine, vehicle or device requiring such license.

(Ord. No. 2181-00, § 4(16-301C.), 11-6-2000)

Sec. 8-190. Denial, suspension or revocation.

Any license issued under this division may be suspended, revoked or denied renewal, if any, of the requirements of this chapter or any provision of this Code is violated. Without a valid license, no business may continue to operate in the activity for which a license is required.

(Ord. No. 2181-00, § 4(16-301D.), 11-6-2000)

Sec. 8-191. Initial application; renewal.

(a) Initial application for a business license must be made a minimum of 30 days prior to commencement of the activity to be licensed.

(b) All business licenses must be current and renewed prior to the expiration date of such license. Applications for renewal must include a completed renewal application, payment of annual fees and must provide any other additional information as may be required by this division.

(c) Any renewal license application under this division submitted or postmarked after December 31 or the stated expiration date of such license shall be assessed a late fee in the amount which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code.

(d) Any person who commences operation of a business without a license may be charged an additional investigative fee at the time the license is initially issued in an amount established in the City's fee ordinance. Whether the person will be charged an investigative fee will be determined administratively by the City Manager or designee based upon the amount of investigative time and effort expended by the City in generally policing the City for unlicensed businesses and in bringing the particular offending business into compliance.

(Ord. No. 2181-00, § 4(16-301E.), 11-6-2000, Ord. No. 2288-05, 2-22-05)

Sec. 8-192. Transferability.

(a) Licenses issued under this division shall be issued for a specific use at a specific location. Any change in the use or location of a licensed activity or business shall require a new application to be submitted and payment of applicable fees prior to beginning the licensed activity.

(b) A license may be transferred to the new owner of the licensed business, provided an application for a license transfer to a new owner is submitted to the city with the transfer fee which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code prior to the change in ownership. An applicant for a business license transfer must have submitted all additional information required for the license transfer, and must have completed any investigations and inspections required prior to transfer of the license, except where the license transfer is otherwise prohibited or restricted in this Code.

(Ord. No. 2181-00, § 4(16-301F.), 11-6-2000)

Sec. 8-193. Re-inspection Fee.

An inspection service fee shall be assessed to the licensee for each additional re-inspection to verify code compliance after a correction notice has been issued and the violation has not been corrected within two subsequent inspections. The licensee will be invoiced for any re-inspection fees. Any and all outstanding fees due must be paid before any change of business ownership is approved or issuance of any annual license renewal.

(Ord. No. 2381-10, 4-30-10)

Secs. 8-194--8-210. Reserved.

Subdivision II. Commercial Entertainment Establishments

Sec. 8-211. License required.

Any person operating a commercial entertainment establishment shall first obtain a license from the city.

(Ord. No. 2181-00, § 4(16-302A.), 11-6-2000)

Sec. 8-212. Roller skating rinks.

(a) *Illumination.* Every roller skating rink shall be illuminated during the hours such roller skating rink is authorized for use by the public. No person shall permit the use of a roller skating rink by the public without proper illumination of the roller skating rink.

(b) *Age requirements.* No operator of a roller skating rink shall permit any person under the age of 16 years, unless such person is accompanied by a parent, guardian or other adult person having authorized care and custody of such minor person, to be in or about the licensed premises at any time between the hours of 10:00 p.m. and 5:00 a.m.

(c) *Hours of operation.* Except as otherwise provided in this section, any room or premises used for a roller skating rink shall be closed and kept closed to the public, and no person shall be permitted to roller skate on such premises between the hours and on the days set forth in the following table and 7:00 a.m. of the following day. Closing hours for roller skating rinks shall be as follows:

Sunday--Tuesday	10:00 p.m.
Wednesday	10:00 p.m. and 12:00 midnight preceding a public holiday or school vacation day during the regular school year
Thursday--Saturday	11:00 p.m.

A roller skating rink located in any building constructed and maintained so that sounds from activities within the building are not audible in any adjacent residential areas may be kept open at all times, except between the hours of 1:00 a.m. and 6:00 a.m., by permit issued by the city.

(d) *Additional requirements.* Any room or premises used for a roller skating rink shall provide adequate security and protection for the public welfare by providing the following:

- (1) Adequate lighting in and around the parking lot of the roller skating rink to promote public safety and to discourage loitering and other such activities as may disturb the surrounding property.
- (2) Adequate security to patrol the parking lot of the roller skating rink during hours of operation and for a reasonable period of time after closing.
- (3) Signs in the parking lot of the roller skating rink warning that the parking lot is for the exclusive use of patrons of the roller skating rink and that vehicles not driven by patrons of the roller skating rink will be towed.

- (4) A broadcasted message to all persons inside the roller skating rink, before the close of each session, asking such persons to exit the premises in a quiet and orderly fashion, to vacate the parking lot quickly and safely and to avoid any activity which might disturb the neighbors.

(Ord. No. 2181-00, § 4(16-302B.), 11-6-2000)

Sec. 8-213. Amusement arcades.

(a) *Licensed premises defined.* The term "licensed premises," as used in this section, means the room in which amusement devices are located, and when such premises are part of a building or structure in which other businesses are conducted, the licensed premises shall not be connected by more than one interior doorway or passageway to other parts of such building or structure. Such doorway or passageway shall be provided with a metal gate or grating which can be locked to secure the licensed premises during such time that use of the premises is not permitted.

(b) *Nuisance.* No amusement arcade shall be operated so as to constitute a public nuisance.

(c) *Maintaining order.* It shall be the responsibility of the amusement arcade licensee to maintain order on the licensed premises at all times.

(d) *Trash and refuse disposal.* It shall be the responsibility of the amusement arcade licensee to ensure the proper and swift disposal of trash or refuse which may accumulate on the amusement arcade site.

(e) *Fire hazards.* It shall be the responsibility of the amusement arcade licensee to see that the licensed premises does not become overcrowded so as to constitute a hazard to the health or safety of persons in the amusement arcade. The fire marshal shall designate and post the maximum number of persons to be permitted on the licensed premises.

(f) *Supervision.* The amusement arcade licensee shall provide a full-time attendant who is at least 21 years of age upon the licensed premises during business hours. The licensed premises shall be locked whenever such attendant is not present.

(g) *Alcohol, drugs and illegal activity.* It is unlawful for any person operating an amusement arcade to sell, offer for sale or knowingly permit to be sold or offered for sale, or to be dispensed or consumed or knowingly brought into the amusement arcade any alcoholic beverages or narcotic drugs, or to knowingly permit any illegal activity upon the licensed premises.

(Ord. No. 2181-00, § 4(16-302C.), 11-6-2000)

Sec. 8-214 Insurance

(a) Except as otherwise required in this Code, applicants and licensees shall maintain comprehensive general liability insurance provided by an insurance carrier authorized to do business in the state. The amount of such insurance rates shall be set by ordinance by the City Council and listed in appendix A to this Code. Such insurance shall remain effective for the term of the license.

(b) The license applicant shall deliver to the city a certificate of insurance, which provides that the insurance may not be canceled by the insurer, except upon thirty (30) days' prior written notice to the city. If such insurance is terminated or not renewed with another policy conforming to the requirements of this section, the license shall be automatically suspended until the insurance has been replaced and a new certificate of insurance is filed with the city.

(c) The licensee is responsible to provide the city with a current certificate of insurance if the policy is renewed during the term of the license.

(Ord. No. 2381-10, 04-30-2010)

Secs. 8-215--8-230. Reserved.

Subdivision III. Environmental Emissions

Sec. 8-231. License required.

No person shall own, operate or maintain any of the following equipment or perform any of the following processes, which discharges a smoke, particulate, chemical or odor into the atmosphere, without first obtaining an environmental emissions license from the city:

- (1) Paint spray booths;
- (2) Drycleaning;
- (3) Smelters;
- (4) Dip tanks; or
- (5) Material processing and manufacturing operations.

(Ord. No. 2181-00, § 4(16-303A.), 11-6-2000)

Sec. 8-232. Regulations adopted.

All environmental emissions licensees shall comply with environmental emissions standards as set forth in section 12-1 of this Code.

(Ord. No. 2181-00, § 4(16-303B.), 11-6-2000)

Sec. 8-233. Inspections.

The city shall inspect potential air pollution control equipment as frequently as may be necessary to ensure compliance with this subdivision, whether such equipment is licensed or not.

(Ord. No. 2181-00, § 4(16-303C.), 11-6-2000)

Sec. 8-234. Access to premises and records.

The person in charge of operating air pollution control equipment on the licensed premises, or allowing or causing the emission of air contaminants shall, upon request of the city's health authority, permit access to all parts of the area, at any reasonable time, for the purpose of inspection of such equipment, and shall exhibit and allow copying of any records relating to air pollution control which are necessary to determine compliance with this subdivision. If access to such areas or records shall be denied, the health authority shall obtain a search warrant before continuing such inspection.

(Ord. No. 2181-00, § 4(16-303D.), 11-6-2000)

Sec. 8-235. Removal and correction of violations.

(a) All environmental emissions licensees receiving a report from the city notifying the licensee of one or more violations of this subdivision shall correct or remove each such violation within the length of time set by the city's health authority. The length of time for the correction or removal of each such violation shall be stated on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this subdivision.

(b) The city's health authority may require installation of auxiliary combustion facilities in order to meet the requirements of this subdivision relating to emission of air contaminants.

(c) If the environmental emissions licensee fails to make corrections of violations noted in the health authority's inspection report within the time specified in the inspection report, the city's health authority may prevent further operation of any equipment required to be licensed under this subdivision by affixing a seal to such equipment. No person shall operate equipment sealed by the city's health authority, and no person shall remove such seal from any equipment, except under the direction of the city's health authority.

(Ord. No. 2181-00, § 4(16-303E.), 11-6-2000)

Sec. 8-236. Temporary suspension of license.

The city's health authority, with the approval of the city manager, may immediately suspend the environmental emissions license of any person for the violation of any terms of this subdivision involving an immediate and serious public health hazard. Upon notification by the health authority of a temporary suspension of an environmental emissions license by posting of the inspection report at the licensed facility, the licensee shall immediately cease operation of the licensed facility. The licensee may appeal from the order of temporary suspension in writing to the city council as provided under this chapter. On the date of suspension of the environmental emissions license, the city's health authority shall send by certified mail to the licensee named in the environmental emissions license a notice that such license has been temporarily suspended and shall advise the licensee of his right to appeal.

(Ord. No. 2181-00, § 4(16-303F.), 11-6-2000)

Sec. 8-237. Interference with or hindrance of city's health authority.

No person shall interfere with or hinder the city's health authority in the performance of the city health authority's duties under this subdivision or the laws of the state, nor prevent the performance of the health authority's duties.

(Ord. No. 2181-00, § 4(16-303G.), 11-6-2000)

Secs. 8-238--8-255. Reserved.

Subdivision IV. Food and Beverage Establishments

Sec. 8-256. License required.

(a) It shall be unlawful for any person to operate a food or beverage establishment, mobile food vehicle or food vending machine without obtaining a license from the city.

(b) One license may be issued to a single applicant for multiple food establishments within a single building or establishment when the owner of all food establishments is the same or multiple mobile food vehicles.

(c) Each food vending machine must have a valid city-issued license decal affixed in a visible location.

(Ord. No. 2181-00, § 4(16-304A.), 11-6-2000; Ord. No. 2198-01, § 2, 5-21-2001; Ord. No. 2381, 04-30-2010)

Sec. 8-257. Classification of food and beverage establishments and food vending machines.

The city will classify each food and beverage establishment, mobile food vehicle, and food vending machine based on the use occurring, in accordance with the food code, into one of the following categories before a license is issued:

- (1) Class H plus--Multiple use license permitting three or more uses of any risk class to operate.
- (2) Class H--High risk use license permitting up to two high risk uses or a single high risk use with a single low or medium risk use.
- (3) Class M--Medium risk use license permitting a single medium risk use.
- (4) Class L--Low risk use license permitting a single low risk use.
- (5) Class V--Food vending machines.
- (6) Class S--Seasonal concession with low or medium risk.
- (7) Class E--Multi-site educational facilities -- Educational facility with multiple locations within the city.
- (8) Mobile Food Vehicle -- Each vehicle used to transport food from a licensed food facility must have a valid city issued decal. *Exception* – A mobile food vehicle license shall not be required for any mobile food vehicle operated by a food and beverage establishment licensed by the City or that has a valid state issued commissary or catering food license.

(Ord. No. 2181-00, § 4 (16-304B.), 11-6-2000; Ord. No. 2198-01, § 2, 5-21-2001 Ord. No. 2332-07, 07-13-2007; Ord. No. 2361-08, 1-1-2009; Ord. No. 2381-10, 04-30-2010)

Sec. 8-258. Regulations and standards.

All food and beverage establishments, and food vending machines licensed under this subdivision shall comply with the city's food code as set forth in section 12-1 of this Code.

(Ord. No. 2181-00, § 4(16-304C.), 11-6-2000; Ord. No. 2198-01, § 2, 5-21-2001)

(a) All food and beverage establishments, mobile food vehicle, and food vending machines licensed under this subdivision shall comply with the city's food code as set forth in section 12-1 of this Code.

(Ord. No. 2181-00, § 4(16-304C.), 11-6-2000; Ord. No. 2198-01, § 2, 5-21-2001; Ord. No. 2246-03, 8-18-03; Ord. No. 2346-07, 12-28-07; Ord. No. 2381-10, 04-30-2010)

Secs. 8-259--8-275. Reserved.*Subdivision V. Public Sanitary Facilities***Sec. 8-276. License required.**

(a) No person shall own, operate, maintain, lease or be responsible for any public sanitary facility without a public sanitary facility license issued by the city. No license is required for private residential swimming pools.

(b) One public sanitary facility license may be issued to a single applicant for multiple public sanitary facilities which are regulated under this subdivision which are located within a single building or single tract of land when the owner of all of the facilities is the same.

(Ord. No. 2181-00, § 4(16-305A.), 11-6-2000)

Sec. 8-277. Classification of public sanitary facilities.

The city will classify each public sanitary facility based on one of the following categories:

- (1) *Class I*--A pool plus two or more additional public sanitary facilities.
- (2) *Class II*--A pool and up to one additional public sanitary facility.
- (3) *Class III*--Any one of the following or similar public sanitary facilities:
 - a. Sauna, dry or steam;
 - b. Tanning beds;
 - c. Public bathing and showers.

(Ord. No. 2181-00, § 4(16-305B.), 11-6-2000)

Sec. 8-278. Public swimming pools.

All public swimming pools licensed under this subdivision shall comply with the public swimming pool rules adopted in section 12-1 of this Code.

(Ord. No. 2181-00, § 4(16-305C.), 11-6-2000)

Sec. 8-279. Tanning facilities.

Licensees under this subdivision operating tanning facilities must comply with health, safety and building regulations of the city and the requirements set forth in M.S.A. §§ 325H.01--325H.09.

(Ord. No. 2181-00, § 4(16-305D.), 11-6-2000)

Secs. 8-280--8-295. Reserved.

Subdivision VI. Massage Therapy Establishments

Sec. 8-296. Massage Therapy Establishment License required.

No person shall operate a massage therapy establishment either exclusively or in connection with any other business enterprise without first obtaining a massage therapy establishment license from the city.

(Ord. No. 2181-00, § 4(16-307A.), 11-6-2000; Ord. No. 2361-08, 1-1-2009; Ord. No. 2381-10, 7-1-2010)

Sec. 8-297. Regulations adopted.

(a) Each licensed massage therapy establishment in the city shall be constructed and maintained in compliance with the health, safety and building regulations of the city, and all state laws, rules and regulations, including but not limited to the following:

- (1) Walls, floors and ceilings must be smooth, clean and in good repair. Low nap carpeting is permitted provided it is kept clean and without wear or tear.
- (2) Massage rooms must be equipped with lighting capable of illuminating horizontal surfaces with a minimum intensity of 50 foot candles to facilitate room cleaning.

- (3) Massage rooms must be equipped with mechanical air ventilation or an exhaust fan.
- (4) A hot and cold water hand washing sink with soap and hand drying by mechanical or disposable towel is required in the therapeutic massage area. Use of a public bathroom or janitor's sink is not allowed. One sink may serve multiple massage therapy rooms in the same business area.
- (5) Any person performing massage therapy, including the licensee of a massage therapy establishment, must be licensed as a massage therapist pursuant to Section 8-302.

(b) No customer or patron of a massage therapy establishment shall be allowed to enter the licensed premises after 8:30 p.m. and before 8:00 a.m. daily. No customer or patron of a massage therapy establishment shall be allowed to remain upon the licensed premises after 9:15 p.m. and before 8:00 a.m. daily. Such restrictions on hours shall not apply where the massage therapy is provided within a health/sports establishment, and in such case, the hours for massage therapy must coincide with the health/sports establishment's hours of operation.

(c) During any hours in which any person is present on the licensed premises of a massage therapy establishment, such establishment shall be open to inspection by city. Upon demand by the city, all persons engaged in providing services in any massage therapy establishment shall identify themselves by name and address.

(d) The applicant for an annual license will be required to provide a copy of a current government issued identification and complete a license application addendum and authorization for a background check to be completed by the city.

(Ord. No. 2181-00, § 4(16-307B.), 11-6-2000; Ord. No. 2361-08, 1-1-2009; Ord. No. 2381-10, 7-1-2010)

Sec. 8-298. Massage Therapy Establishment License Application.

(a) Each application shall be made on a form supplied by the city and shall contain the following information:

- (1) Name of business.
- (2) Address of business.
- (3) Property owner name, address and phone number.
- (4) Applicant name, address and phone number.
- (5) Name of manager/proprietor.
- (6) Names of licensed massage therapist and city license numbers.
- (7) Whether the applicant is an individual, corporation, partnership, or other form of organization.
- (8) If the applicant is an individual:
 - a. The true name, place and date of birth, address and phone number of the applicant.
 - b. Whether the applicant has ever used or has been known by any other name and, if so, what was such name and information concerning dates and places where used.
 - c. The name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant; in such case, a certified copy of the certificate as required by Minn. Stat. ch. 333 shall be attached to the application.
 - d. The street address at which the applicant has lived during the preceding five (5) years.

- e. The kind, name and location of every business or occupation the applicant has been engaged in during the preceding five (5) years.
 - f. The names and addresses of the applicant's employers and partners, if any, for the preceding five (5) years.
 - g. Whether the applicant has ever been convicted of any crime or violation of any ordinance other than traffic ordinances. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.
 - h. The physical description of the applicant.
 - i. Whether the applicant is licensed in other communities to run similar businesses, and, if so, where.
 - j. Whether the applicant has previously been denied a massage license or had such a license or permit suspended or revoked, along with an explanation of any such denial, suspension or revocation.
- (9) If the applicant is a partnership, in addition to the information required by subsections (a)(1)-(7) of this section, the following shall be provided:
- a. The names, addresses and interest of all partners and all information concerning each partner that is required of an individual applicant in subsection (a)(8) of this section.
 - b. A copy of the partnership agreement, which shall be submitted with the application. If the partnership is required to file a certificate as to a trade name under the provisions of Minn. Stat. ch. 333, a certified copy of such certificate shall also be attached.
- (10) If the applicant is a corporation or other organization, in addition to the information required by subsections (a)(1)-(7) of this section, the following shall be provided:
- a. The name and, if incorporated, the state of incorporation.
 - b. A copy of the certificate of incorporation, articles of incorporation or association agreement, and bylaws, which shall be attached to the application. If a foreign corporation, a certificate of authority, as described in Minn. Stat. ch. 303 shall also be attached.
 - c. A list of all persons who are officers or directors of the corporation or organization or who control or own an interest in such corporation or organization.
 - d. All information required by subsection (a)(8) of this section for any manager or other individual directly involved in the operation of the massage therapy establishment.
- (b) The applicant and licensee shall have a continuing duty to immediately disclose to the city any change in the information supplied in the application.

Sec. 8-299. Massage Therapy Establishment Application review and license issuance.

- (a) Complete applications shall be reviewed by the city for verification and investigation of the facts set forth in the application, including a criminal background investigation of all individuals required to provide the information in section 8-298(a)(8) and each massage therapist. The city may order and conduct such additional investigation as deemed necessary.
- (b) The city shall make the determination whether to approve or deny the license. Any denial shall be communicated to the applicant in writing, specifying the reasons for denial. The applicant may appeal the denial in accordance with the procedure specified in section 8-36.
- (c) Complete applications for issuance of annual licenses shall be submitted to the city at least thirty (30) days prior to the expiration of the license.

Sec. 8-300. Massage Therapy Establishment License Refusal, suspension and revocation.

The city may refuse to grant a massage therapy establishment license or license renewal and may suspend or revoke a license for any reasonable cause including the following:

- (a) The application is incomplete.
- (b) The applicant is less than 18 years of age.
- (c) The applicant or any massage therapist working at the massage therapy establishment has been convicted of a sexually oriented crime, prostitution, or any other crime or violation involving moral turpitude within five (5) years of the date of application.
- (d) The applicant falsified information on the application.
- (e) The applicant or any massage therapist working at the massage therapy establishment has a history of violations of laws or ordinances that apply to health, safety, welfare, or moral turpitude.
- (f) For other good cause.

Sec. 8-301. Massage Therapist License required.

(a) No person shall engage, or hold himself or herself out as being engaged, in the practice of massage therapy without first obtaining a license as herein provided.

(b) A massage therapist who provides massage therapy at either a licensed massage therapy establishment or at any other location in the city must comply with all the provisions of this section.

(c) *Exception.* A massage therapist license shall not be required for any student of massage therapy meeting the definition as set forth herein, provided:

- (1) The massage therapy is provided during and as part of a course or clinical component of the school's program or course work; and
- (2) The massage therapy student is supervised by an instructor while providing massage therapy services. A notice, which advises the public that the person who may provide massage therapy services is a student of massage therapy and is not licensed by the city, shall be posted in the room in which the massage therapy is provided.

Sec. 8-302. Massage Therapist Regulations adopted.

- (a) Commencing on January 1, 2011, only massage therapists having the following qualifications shall be allowed to perform massage therapy at any location in the city:
 - (1) a diploma or certificate of graduation from a school approved by the American Massage Therapist Association or other similar reputable massage association; or
 - (2) a diploma or certificate of graduation from a school, which is either accredited by a recognized educational accrediting association or agency or is licensed by the state or local government agency having jurisdiction over the school; or

- (3) a certificate of National Certification for Therapeutic Massage and Body Work by the National Certification Board of Therapeutic Massage and Body Work, an affiliate of the American Massage Therapy Association.
- (b) The licensee shall comply with applicable ordinances, regulations, and laws of the city, the state of Minnesota, and the United States.

Sec. 8-303. Massage Therapist License application.

(a) Every application for a massage therapist license shall be made on a form supplied by the city and shall contain the following information:

- (1) The name, place and date of birth, address and phone number of the applicant.
- (2) Whether the applicant has ever used or has been known by any other name and, if so, what was such name and information concerning dates and places where used.
- (3) The name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant; in such case, a certified copy of the certificate as required by Minn. Stat. ch. 333 shall be attached to the application.
- (4) The street address at which the applicant has lived during the preceding five (5) years.
- (5) The kind, name and location of every business or occupation the applicant has been engaged in during the preceding five (5) years.
- (6) The names and addresses of the applicant's employers and partners, if any, for the preceding five (5) years.
- (7) Whether the applicant has ever been convicted of any felony or other crime or violation of any ordinance other than petty misdemeanor traffic violations and the time, place and offense involved in any such convictions.
- (8) The physical description of the applicant.
- (9) The name of the manager or proprietor or other agent in charge of any business through which the massage therapy services will be provided or scheduled.
- (10) The name of any other municipalities in which the applicant works as a massage therapist.
- (11) Whether the applicant has previously been denied a massage license or had such a license or permit suspended or revoked, along with an explanation of any such denial, suspension or revocation.

(b) The applicant will be required to provide a copy of a current government issued identification and complete a license application addendum authorizing the city to conduct a criminal background investigation.

(c) The applicant and licensee shall have a continuing duty to immediately disclose to the city any change in the information supplied in the application.

Sec. 8-304. Massage Therapist Application review and license issuance.

(a) Complete applications shall be reviewed by the city for verification and investigation of the facts set forth in the application, including a criminal background investigation of the applicant. The city may order and conduct such additional investigation as deemed necessary.

(b) The city shall make the determination whether to approve or deny the license. Any denial shall be communicated to the applicant in writing, specifying the reasons for denial. The applicant may appeal the denial in accordance with the procedure specified in section 8-36.

(c) Complete applications for issuance of annual licenses shall be submitted to the city at least thirty (30) days prior to the expiration of the license. The determination regarding approval or denial of the license renewal shall be communicated to the applicant in writing, specifying the reasons if the application is denied. The applicant may appeal the denial in accordance with the procedure specified in section 8-36.

Sec. 8-305. Refusal, suspension and revocation of massage therapist license.

The city may refuse to grant a massage therapist license and may suspend or revoke a license for any reasonable cause including the following:

(a) the application is incomplete.

(b) the applicant is less than 18 years of age.

(c) the applicant has been convicted of a sexually oriented crime, prostitution, or any other crime or violation involving moral turpitude within five (5) years of the date of application.

(e) the applicant falsified information on the application.

(f) the applicant has a history of violations of laws or ordinances that apply to health, safety, welfare, or moral turpitude.

(g) for other good cause.

(Ord. No. 2381-10, 07-01-2010)

Secs. 8-306--8-315. Reserved.*Subdivision VII. Lodging***Sec. 8-316. License required.**

Any person operating a hotel, lodginghouse or boardinghouse within the city must obtain a license for such operation from the city.

(Ord. No. 2181-00, § 4(16-308A.), 11-6-2000)

Sec. 8-317. Regulations adopted.

All lodging hotels, lodginghouses and boardinghouses licensed under this subdivision shall comply with the lodging establishment rules adopted in section 12-1 of this Code. (Ord. No. 2181-00, § 4(16-308B.), 11-6-2000)

Secs. 8-318--8-325. Reserved.*Subdivision VIII. Rental Housing***Sec. 8-326. License required.**

(a) The owner of a residential building or portion thereof operated as rental housing with one or more dwelling units must obtain a rental housing license. The license shall contain a statement that the tenant or tenants may contact the attorney general for information regarding the rights and obligations of owners and tenants under state law. The statement shall include the telephone number and address of the attorney general.

(b) The term “rental housing” means any dwelling unit that is not owner occupied. The term includes any dwelling unit which is either unoccupied or occupied by a relative of the owner.

(c) Exceptions. No license shall be required under the following circumstances:

- (1) A dwelling unit occupied by the owner for a minimum of six months per calendar year.
- (2) Rented rooms within an owner occupied dwelling unit.
- (3) Unoccupied dwelling units being offered for sale which have been issued a Certificate of Property Maintenance that remains in effect.

(d) The term “Owner” means the owner as determined by an examination of record title to the property at the office of the Hennepin County Recorder.

(Ord. No. 2181-00, § 4(16-309A.), 11-6-2000, Ord. No. 2282-04, 11-15-2004, Ord. No. 2334-07, 08-10-2007; Ord. No. 2361-08, 1-1-2009)

Sec. 8-327. Required Application Information.

The owner must identify a designated property manager responsible for operation and maintenance of each licensed property. Contact information for the owner and property manager must be provided on the license application, and the owner must provide the city with any changes occurring within the license period. The owner may be the designated property manager. The owner must submit verification with the license application that the designated property manager has attended required training as specified in this section and that the Crime Free/Drug Free and Disorderly Use language required by this section is contained in the licensed property tenant lease or leases.

(Ord. No. 2334-07, 08-10-2007; Ord. No. 2361-08, 1-1-2009)

Sec. 8-328. Crime Free/Drug Free Training.

The owner or property manager must have attended an approved training program in The Minnesota Crime Free Multi-Housing Program before any rental license is issued. A Provisional License may be issued for six months to accommodate the training schedule. An owner whose only rental housing is either unoccupied or a dwelling unit homesteaded by a relative is exempted from the training program.

(Ord. No. 2334-07, 08-10-2007; Ord. No. 2361-08, 1-1-2009)

Sec. 8-329. Maintenance.

The owner of a residential building or portion thereof operated as rental housing must maintain all dwelling units, common space and exteriors of such buildings within the owner's control in compliance with the City Code, and state and federal laws and regulations. The owner of such rental housing shall perform a periodic assessment of all portions of the building and correct any inadequacies to ensure the building is maintained in good repair.

(Ord. No. 2334-07, 08-10-2007; Ord. No. 2361-08, 1-1-2009)

Sec. 8-330. City Inspections.

(a) The owner of rental housing shall permit access by the City to perform a minimum of one inspection every two years of every dwelling unit and common space within the owner's control. The City may perform or require additional inspections if deemed necessary by the City or by the request of a tenant. The owner shall notify the tenant or tenants of the time when the City inspection will be conducted and provide access to the units.

(b) The owner's rental housing license may be suspended, revoked or denied renewal for failing to maintain the licensed building in compliance with the property maintenance code as set forth in chapter 6, article V of this Code or otherwise failing to comply with the requirements of the City Code or applicable state or federal law.

(Ord. No. 2334-07, 08-10-2007; Ord. No. 2361-08, 1-1-2009)

Sec. 8-331. Crime Free/Drug Free and Disorderly Use Lease Requirements.

(a) All tenant leases, except for state licensed residential facilities and subject to all preemptory state and federal laws, shall contain the following Crime Free/Drug Free and Disorderly Use language:

(1) Crime Free/Drug Free.

1. Resident, any members of the resident's household or a guest or other person affiliated with resident shall not engage in criminal activity, including drug-related criminal activity, on or near the premises.
2. Resident, any member of the resident's household or a guest or other person affiliated with resident shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the premises.

3. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household or a guest, or other person affiliated with the resident shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance at any locations, whether on or near the premises or otherwise.
5. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.

(2) Disorderly Use.

1. Resident, members of the resident's household, guests, or other persons under the resident's control shall not engage in the following Disorderly Use activities: violations of state law relating to alcoholic beverages, trespassing or disorderly conduct; and violation of the St. Louis Park City Code relating to zoning, nuisance and prohibited noise.
2. THREE DISORDERLY USE VIOLATIONS INVOLVING THE SAME TENANCY WITHIN A CONTINUOUS TWELVE MONTH PERIOD SHALL BE A SUBSTANTIAL AND MATERIAL VIOLATION OF THE LEASE AND GOOD CAUSE FOR TERMINATION OF THE TENANCY.

(3) Definitions.

1. The term "criminal activity" means prostitution, criminal street gang activity, threatening, intimidating or assaultive behavior, the unlawful discharge of firearms, or any other criminal activity on or near the premises that jeopardizes the health, safety and welfare of the landlord, his agent, other resident, neighbor or other third party, or involving imminent or actual serious property damage.
2. The term "drug related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance or any substance represented to be drugs (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).

(4) Non-Exclusive Remedies. The Crime Free/Drug Free and Disorderly Use provisions are in addition to all other terms of the lease and do not limit or replace any other provisions.

(b) These lease provisions shall be incorporated into every new lease for a tenancy beginning January 1, 2008 and all renewed leases by January 1, 2009.

(c) Upon determination by the Police Department that a licensed premises or unit within a licensed premise was used in violation of the Crime Free/Drug Free provisions of Subsection (a) (1) herein, the Police Department shall cause notice to be made to the owner and property manager of the violation. The owner or property manager shall notify the tenant or tenants within ten days of the notice of violation of the Crime Free/Drug Free lease language and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.

(d) Upon determination by the Police Department that a licensed premises or unit within a licensed premises was used for Disorderly Use activities as set forth in Subsection (a)(2) herein, the Police Department shall cause notice to be made to the owner and property manager of the violation and direct the owner and property manager to take steps to prevent further Disorderly Use violations.

(e) If a second Disorderly Use violation as determined by the Police Department occurs within a continuous twelve month period involving the same tenancy, the Police Department shall cause notice to be made to the owner and property manager of the second violation. The owner or property manager shall respond in writing within ten (10) days of receipt of the notice with an action plan to prevent further Disorderly Use violations.

(f) If a third Disorderly Use violation as determined by the Police Department occurs within a continuous twelve month period involving the same tenancy, the Police Department shall cause notice to be made to the owner and property manager of the third violation. The owner or property manager shall notify the tenant or tenants within ten days of the Notice of Disorderly Use violation of the Crime Free/Drug Free lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.

(g) The provisions of Subsections (c), (d), (e), and (f) herein do not apply if the determination that the premises have been used in violation of the Crime Free/Drug Free provisions of Subsections (a)(1) and (a)(2) herein originates from a call from or at the request of one or more of the tenants occupying the premises for police or emergency assistance, or in the case of domestic abuse, from a call for assistance from any source. The term “domestic abuse” has the meaning given in Minn. Stat. § 518B.01, subd. 2.

(Ord. No. 2334-07, 08-10-2007, Ord. No. 2361-08, 1-1-2009)

Sec. 8-332. Administrative License Violation Fee.

An owner failing to proceed with an action to terminate the tenancy after Police Department notification in accordance with a Crime Free/Drug Free violation or the third Disorderly Use violation shall pay an administrative license violation fee of \$750.00 for each calendar month that the owner fails to proceed. Any outstanding fees must be paid prior to the city renewing a rental license for the licensed premises.

(Ord. No. 2334-07, 08-10-2007)

Sec. 8-333. Provisional Licenses.

(a) A licensed premises is only eligible for a provisional license under the following circumstances:

- (1) a licensed premises with between three and eleven dwelling units has generated an average of 1.0 or more police contacts per dwelling unit in the preceding twelve (12) month period; or
 - (2) a licensed premises with twelve or more dwelling units that has generated an average of 0.7 or more police contacts per dwelling unit in the preceding twelve (12) month period; or
 - (3) the existence of substantial on-going public safety concerns; or
 - (4) licensee's consistent failure to maintain compliance with property maintenance and other City Code requirements.
- (b) Police contacts counted to determine whether a provisional license is required include disorderly use activities, criminal activity and drug related criminal activity defined in Section 8-331. The police contact shall be counted if it involves an incident that occurs anywhere on the licensed premises regardless of who is involved, or near the licensed premises if the contact involves tenants or guests of the licensed premises and the incident is connected to the licensed premises.
- (c) Police contacts will not be counted for purposes of determining whether a provisional license is required where the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).
- (d) The period of time used to determine whether a provisional license is required based upon the number of police contacts is the twelve (12) month period ending two months before the expiration of the existing license. Additionally, upon sixty (60) days notice to the licensee, a regular license may be converted to a provisional license if substantial on-going public safety concerns exist.
- (e) The existence of substantial on-going public safety concerns that make a licensed premises only eligible for a provisional license even though the number of police calls does not meet the above threshold shall be determined by the Chief of Police. Factors that will be considered include the nature and severity of the incidents giving rise to the police contacts, any evidence that tenants are being discouraged or intimidated from making police contacts, the level of community policing activity compared to similar properties, the number of unauthorized guests and other non-tenants at the premises and the licensee's timeliness and diligence in evicting or otherwise addressing public safety concerns.
- (f) If a licensee is determined to be only eligible for a provisional license, the licensee must submit to the City manager or designee for review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police contacts and public safety concerns to a level that qualifies for a regular license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct and security personnel. If there has been a consistent failure to promptly meet property maintenance and other code requirements, the mitigation plan shall describe the steps to eliminate the problem.

- (g) In addition to an approved mitigation plan, a provisional license will only be issued if the following conditions are also met:
- (1) Owner and manager or managers have all successfully completed, or will promptly complete, a training program provided or specified by the City.
 - (2) Managers must be resident managers or on-site managers who are on site or available 24 hours a day.
 - (3) The licensee must provide the City with a current Certificate of Insurance providing proof of property and general liability coverage. The City may notify the insurer of the license status of the property.
- (h) After giving the applicant an opportunity to be heard, the City Manager or designee shall approve, disapprove, or approve with conditions the application and the mitigation plan. In evaluating a mitigation plan, the City Manager or designee will consider, among other things, the facility, its management practices, the nature and seriousness of the causes for police contacts and general public safety concerns, and the expected effectiveness of measures identified in the plan to reduce the number of police contacts or incidents of property maintenance and other code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the City Manager or designee will also consider the effectiveness of measures identified in any previous mitigation plan and the need for different or additional measures to reduce police contacts, address overall public safety concerns or reduce property maintenance and other code violations.
- (i) The licensee shall comply with the mitigation plan as approved or modified by the City Manager or designee. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager or designee a written report describing all steps taken in furtherance of the mitigation plan during the preceding month. A provisional license will be issued for up to a maximum of twelve months.
- (j) The fee for a provisional license shall be established by ordinance. The licensee having a regular license converted to a provisional license within the regular license term must pay the license fee difference.

(Ord. No. 2393-10, 11-12-10)

Sec. 8-334. License Suspension, Revocation, Denial and Non-Renewal.

- (a) Every regular or provisional rental housing license issued under the provisions of Section 8-326 to 8-333 is subject to suspension, revocation or non-renewal pursuant to Section 8-36.
- (b) The City may revoke, suspend or decline to renew any regular or provisional rental housing license issued pursuant to Sections 8-326 to 8-333 upon any of the following grounds:
- (1) false statements on any application or other information or report required by this Chapter to be given by the applicant or licensee.
 - (2) failure to pay any application, penalty, reinspection or reinstatement fee required by this Chapter and City Council resolution.

- (3) failure to correct deficiencies indentified in violation notices within the specified time for maintaining the building and property in compliance with Sec. 8-329 or failure to accommodate inspections are required by Sec. 8-330.
 - (4) failure to comply with the provisions of an approved mitigation plan in the case of provisional licenses.
 - (5) failure to operate or maintain the licensed premises in conformity with all applicable state laws and regulations and this Code of Ordinances.
 - (6) actions by the licensee which constitute either intimidation of or retaliation against a tenant relating to the initiation of a police contact, the reporting of a potential property maintenance violation or other communication to any public official or other third party about the condition of the property or activities occurring on or near the licensed premises.
 - (7) any other violation of this Chapter.
- (c) Licenses may be suspended for up to six (6) months and may, after the period of suspension, be reinstated subject to compliance with this Chapter and any conditions imposed by the City at the time of suspension. Licenses that are revoked will not be reinstated until the owner has applied for and secured a new license and complied with all conditions imposed at the time of revocation.
- (d) In the event that a license is suspended, revoked or not renewed, it shall be unlawful for the owner or the owner's duly authorized agent to thereafter permit any new occupancies of vacant or thereafter vacated rental units until such time as a valid license may be restored. Revocation, suspension or non-renewal of a license shall not excuse the owner from compliance with all state laws and regulations and this Code of Ordinances for as long as any units in the facility are occupied. Failure to comply with all terms of this Chapter during the term of revocation, suspension or non-renewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or non-renewal.
- (e) Nothing in this section shall permit occupancy of a licensed premises or individual dwelling unit if the Certificate of Occupancy is revoked or the licensed premises or unit is posted uninhabitable.

(Ord. No. 2393-10, 11-12-10)

Sec. 8-335. Provisional License Fee

The fee for a provisional license shall be twice the amount of an equivalent regular license, with such fee being set by ordinance by the City Council and codified as part of Appendix A to the City Code. (Ord. No. 2393-10, 11-12-10)

*Subdivision IX. Sexually-Oriented Businesses****Sec. 8-346. Purpose and intent.**

(a) The purpose of this subdivision is to regulate sexually-oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city, to prevent criminal activity, to guard against the inception and transmission of disease, and to establish reasonable and uniform regulations. The provisions of this subdivision have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this subdivision to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to the intended market of such entertainment.

(b) The city council finds that experience from other cities demonstrates that sexually-oriented businesses conducted in private by members of the same or the opposite sex and employing personnel with no specialized training are susceptible to operation in a manner contravening, subverting or endangering the health, safety and welfare of members of the community by being the sites of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, licensing and regulation of such sexually-oriented businesses.

(Ord. No. 2181-00, § 4(16-310A.), 11-6-2000)

***Cross reference(s)**--Zoning, ch. 36.

Sec. 8-347. Prohibition.

No person shall operate a sexually-oriented business except in conformity with the provisions of this subdivision.

(Ord. No. 2181-00, § 4(16-310B.), 11-6-2000)

Sec. 8-348. Exceptions.

The following are not subject to the requirements of this subdivision:

- (1) Any material with significant literary content or social commentary.
- (2) A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided for off-site use or entertainment, if:
 - a. The material harmful to minors on each item is blocked from view by an opaque cover as required by M.S.A. § 617.293; and
 - b. Each item is behind the counter and accessible only by an employee of the business.
- (3) Any person or organization exempt by M.S.A. § 617.295.
- (4) Any activity regulated by M.S.A. § 617.251.
- (5) Displaying works of art showing specified anatomical areas as long as no sexually-oriented materials are for sale, and the business does not have a liquor license.

(6) Movies which are rated G, PG, PG-13 or R.

(Ord. No. 2181-00, § 4(16-310C.), 11-6-2000)

Sec. 8-349. License application.

(a) Every person desiring a license to operate a sexually-oriented business shall file with the city an application in a form provided by the city. The application must be accompanied by a sketch or diagram showing the configuration of the premises to be licensed, including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with market dimensions of the interior of the premises to an accuracy of plus or minus six inches. In the case of a high impact sexually-oriented business, the application must include a drawing showing the parcel upon which the business is to be located, and the location of all residential zoning districts; other sensitive land uses including day care centers, parks, schools, libraries and religious institutions; other sexually-oriented businesses; and establishments which hold a liquor license which are located within 350 feet of such business.

(b) The applicant for a high impact sexually-oriented business license must be qualified according to the provisions of this subdivision, and the premises must be inspected and found to be in compliance with the law by the fire department and building official.

(c) No person shall make a false statement or material omission in a sexually-oriented business license application. Every person shall cooperate in a license investigation. Any false statement or material omission on the license application shall be grounds for denial, suspension or revocation of the license.

(d) If a person who wishes to operate a high impact sexually-oriented business is an individual, the individual must sign the application for such license as the applicant. If a person who wishes to operate a high impact sexually-oriented business is other than an individual, each individual who has a ten percent or greater interest in the business must sign the application for a license as the applicant. Each applicant for a high impact sexually-oriented business license must be qualified under this subdivision, and each applicant shall be considered a licensee if a license is granted.

(e) Throughout the period of the sexually-oriented business license, the licensee shall have the continuing duty to properly notify the city clerk of any change in the information or facts required to be furnished on the application for a license. Failure to comply with this subsection shall constitute cause for revocation or suspension of the license.

(f) Once the investigation has begun, there shall be no refund of the application or investigation fee for a high impact sexually-oriented business license.

(Ord. No. 2181-00, § 4(16-310D.), 11-6-2000)

Sec. 8-350. Renewal applications.

(a) The application for the renewal of an existing high impact sexually-oriented business license shall be made at least 90 days prior to the date of the expiration of the license, and shall be made in the form that the city council shall require.

(b) If the city manager believes that the public interest so warrants, a background and financial investigation may be required for a renewal of a high impact sexually-oriented business license. A background and financial investigation fee which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code must be submitted prior to issuance of the renewal license.

(Ord. No. 2181-00, § 4(16-310E.), 11-6-2000)

Sec. 8-351. Issuance of license.

The city manager shall approve the issuance of a sexually-oriented business license by the city clerk to an applicant within 60 days after receipt of the application for such license unless the city manager finds one or more of the following to be true:

- (1) For either a high impact sexually-oriented business or a limited impact sexually-oriented business:
 - a. The applicant is under 18 years of age at the time the application is filed;
 - b. The applicant is delinquent in his payment to the city of taxes, fees, fines or penalties assessed against him or imposed upon him in relation to a sexually-oriented business;
 - c. The 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;
 - d. The application fee and/or license fee required by this subdivision have not been paid;
 - e. The applicant or the proposed establishment is in violation of, or is not in compliance with, this subdivision or chapter 36 of this Code.
- (2) For a high impact sexually-oriented business:
 - a. The applicant has been convicted of any crime directly related to the licensed occupation, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually-oriented business under M.S.A. § 364.03, subd. 3, or a person not of good moral character and repute;
 - b. The applicant is residing with a person who has been denied a license by the city to operate a sexually-oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually-oriented business has been revoked within the preceding 12 months;
 - c. The premises to be used for the sexually-oriented business have not been approved by the fire department and the building official as being in compliance with applicable laws and ordinances;
 - d. The applicant has been employed in a sexually-oriented business in a managerial capacity within the preceding 12 months, and has demonstrated that he is unable to operate or manage a sexually-oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers;
 - e. The applicant or his spouse has been convicted of a crime:
 1. Involving any of the following offenses as set forth in M.S.A. ch. 609 or 617:
 - i. Prostitution as set forth in M.S.A. § 609.321;
 - ii. Solicitation, inducement or promotion of prostitution as set forth in M.S.A. § 609.322;

- iii. Receiving profit derived from prostitution as set forth in M.S.A. § 609.323;
 - iv. Other prohibited acts relating to prostitution as set forth in M.S.A. § 609.324;
 - v. Obscenity as set forth in M.S.A. § 617.241;
 - vi. Sale, dissemination, distribution, display or exhibition of harmful material to minors as set forth in M.S.A. §§ 617.293 and 617.294;
 - vii. Sexual performance by a child as set forth in M.S.A. § 617.246;
 - viii. Dissemination or possession of child pornography as set forth in M.S.A. § 617.247;
 - ix. Indecent exposure as set forth in M.S.A. § 617.23;
 - x. Criminal sexual conduct as set forth in M.S.A. §§ 609.342, 609.343, 609.344 and 609.345;
 - xi. Incest as set forth in M.S.A. § 609.365; or
 - xii. Criminal attempt, conspiracy or solicitation to commit any of the offenses set forth in this subsection (2)e.1.;
2. For which:
- i. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - ii. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - iii. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses, or a combination of misdemeanor offenses, occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.

- f. In the judgment of the city, the applicant is not the real party in interest or the beneficial owner of the business operated under the license;
- g. The applicant has had a license for a sexually-oriented business or similar business revoked anywhere within five years of the license application.

(Ord. No. 2181-00, § 4(16-310F.), 11-6-2000)

Sec. 8-352. Appeals.

(a) *Procedure.* If the city manager denies the issuance of a sexually-oriented business license, or suspends or revokes a sexually-oriented business license, the city manager shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action, and

the applicant's or licensee's right to an appeal. The aggrieved party may appeal the decision of the city manager to the city council within ten days of receiving notice of the city's action. The city council may appoint a committee of the city council, or an independent hearing officer, to hear the matter, report findings of fact and recommendation for disposition to the city council. Hearings on the appeal shall be open to the public, and the licensee or applicant shall have the right to appear and be represented by legal counsel and to offer evidence in their behalf. At the conclusion of the hearing and within 30 days of the appeal of the decision by the applicant or licensee, the city council shall make a final decision on such appeal.

(b) *Additional requirements.* The city council may condition denial, suspension, revocation or nonrenewal of a license upon appropriate terms and conditions.

(c) *Stay of decision.* The filing of an appeal stays the action of the city manager in denying, suspending or revoking a sexually-oriented business license until the city council makes a final decision. If an applicant or licensee under this subdivision files an appeal to a federal or state court within 30 days of the city council's decision in denying, suspending or revoking a license under this subdivision, the city council's decision shall be stayed until a final court decision is rendered in the matter.

(Ord. No. 2181-00, § 4(16-310G.), 11-6-2000)

Sec. 8-353. High impact sexually-oriented businesses.

(a) *License required.* No person shall operate a high impact sexually-oriented business which offers sexually-oriented materials or entertainment for on-site consumption within the city unless the person is currently licensed under this section.

(b) *Regulations adopted.*

- (1) Every high impact sexually-oriented business license is subject to the conditions set forth in this section, all other provisions of this subdivision and any other applicable regulations, ordinances or state laws.
- (2) Every high impact sexually-oriented business licensee is responsible for the conduct of his place of business and conditions of order in such place of business.
- (3) The act of any employee of a high impact sexually-oriented business licensee is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this article equally with the employee, except criminal penalties.
- (4) Both the owner and manager of a high impact sexually-oriented business shall be responsible for the conduct of their employees and for compliance with this section.
- (5) The owner or manager of a high impact sexually-oriented business shall not employ a person under the age of 18 years.
- (6) The owner, manager or employee of a high impact sexually-oriented business shall not allow any sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

- (7) The owner, manager or employee of a high impact sexually-oriented business shall not have been convicted of a sex crime, as set forth in M.S.A. §§ 609.293--609.352, 609.746--609.749, 609.79 and 518B.01, or related statutes dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse.
- (8) The owner, manager or employee of a high impact sexually-oriented business shall ensure that no person under the age of 18 years enters the business.
- (9) The owner, manager or employee of a high impact sexually-oriented business shall not allow any person under the age of 18 years to have access to sexually-oriented materials, whether by sight, purchase, touch or any other means.
- (10) The owner, manager or employee of a high impact sexually-oriented business may not sell or display for sale any sexually-oriented materials except in original unopened packages.
- (11) Each high impact sexually-oriented business shall display a sign on the main entrance door to such business which reads: "This business sells sexually-oriented material or entertainment. Persons under the age of 18 are prohibited from entering." The sign letters shall be a minimum of two inches in height.
- (12) No high impact sexually-oriented business may have a 3.2 percent malt liquor license or intoxicating liquor license issued by the city, and no alcoholic beverages may be consumed in the business.
- (13) No high impact sexually-oriented business shall exceed 10,000 square feet in gross floor area.
- (14) No patron, employee or other person of a high impact sexually-oriented business may physically contact any specified anatomical area of himself or of any other person, except that a live performer may touch himself.
- (15) Each live performer in a high impact sexually-oriented business shall at all times remain a minimum distance of ten feet from all members of the audience, and shall perform on a platform intended for such purpose, which platform shall be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept any pay, tip or other time from any member of the audience.
- (16) No high impact sexually-oriented business shall have any booths, stalls or partitions, whether constructed with walls or the arrangement of objects which separate any area from a general public room. This restriction does not apply to restrooms, storage rooms or private offices of the owner, manager or employees of the high impact sexually-oriented business, if such storage rooms or offices are used solely for running the business and no person other than the owner, manager and employees of such business are allowed in the storage rooms or offices.

(Ord. No. 2181-00, § 4(16-310H.), 11-6-2000)

Sec. 8-354. Limited impact sexually-oriented businesses.

(a) *Licensed required.* No person shall operate a limited impact sexually-oriented business within the city unless the person is currently licensed under this section.

(b) *Regulations adopted.*

- (1) The owner, manager or employee of a limited impact sexually-oriented business shall not allow any sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- (2) The owner, manager or employee of a limited impact sexually-oriented business shall ensure that no person under the age of 18 years enters the separate area where sexually-oriented materials are provided.
- (3) The owner, manager or employee of a limited impact sexually-oriented business shall not allow any person under the age of 18 years to have access to any sexually-oriented materials, whether by sight, purchase, touch or any other means.
- (4) The owner, manager or employee of a limited impact sexually-oriented business may not sell or display for sale any sexually-oriented materials, except in original unopened packages.
- (5) No limited impact sexually-oriented business may have a 3.2 percent malt liquor license or intoxicating liquor license issued by the city, other than an off-sale 3.2 percent malt liquor license.
- (6) Both the owner of a limited impact sexually-oriented business and the manager of such business shall be responsible for the conduct of their employees and for compliance with the requirements of this section.
- (7) The owner or manager of a limited impact sexually-oriented business shall not employ a person under the age of 18 years.
- (8) The owner, manager or employee of a limited impact sexually-oriented business shall not have been convicted of violating the requirements of this section three or more times within 24 months.

(Ord. No. 2181-00, § 4(16-310I.), 11-6-2000)

Secs. 8-355--8-370. Reserved.*Subdivision X. Tobacco Products and Tobacco Related Devices***Sec. 8-371. Purpose.**

Because the city finds that smoking causes premature death, disability and chronic diseases, including cancer, heart disease and lung disease; smoking related diseases result in excess medical care costs; and smoking initiation occurs primarily in adolescence, the city desires to prevent

young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air.

(Ord. No. 2181-00, § 4(16-311A.), 11-6-2000)

Sec. 8-372. License required.

(a) No person shall sell or offer to sell any tobacco, tobacco product or tobacco related device without first having obtained a license to do so from the city.

(b) No license shall be issued for the sale of tobacco, tobacco products or tobacco related devices at any place other than the applicant's place of business. No license shall be issued for a moveable place of business; nor shall any single license be issued for the sale of tobacco, tobacco products or tobacco related devices at more than one place of business.

(Ord. No. 2181-00, § 4(16-311B.), 11-6-2000)

Sec. 8-373. Denial of license.

The following will be grounds for denying the issuance or renewal of a license under this subdivision, and if a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section:

- (1) The applicant is under the age of 18 years.
- (2) The applicant has been convicted of any violation of a federal, state or local law, ordinance or other regulation relating to tobacco, tobacco products or tobacco related devices.
- (3) The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked.
- (4) The applicant fails to provide any information required on the license application, or provides false or misleading information on such license application.
- (5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation from holding a license under this subdivision.

(Ord. No. 2181-00, § 4(16-311C.), 11-6-2000)

Sec. 8-374. Prohibited sales.

It shall be a violation of this subdivision for any person to sell or offer to sell any tobacco, tobacco product or tobacco related device:

- (1) To any person under the age of 18 years.
- (2) By means of any type of vending machine.
- (3) By means of self-service merchandising whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco related product or tobacco related device. All tobacco related products shall be stored behind a counter or other area not freely accessible to customers.

- (4) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana or other type of deleterious, hallucinogenic or toxic or controlled substance, except nicotine, and not naturally found in tobacco or tobacco products.
- (5) By any other means or to any other person prohibited by federal, state or other local laws, ordinances or other regulations.

(Ord. No. 2181-00, § 4(16-311D.), 11-6-2000)

Sec. 8-375. Responsibility for sales.

All licensees under this subdivision shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises, and the sale of tobacco, tobacco products or tobacco related devices by an employee shall be considered a sale by the licensed owner.

(Ord. No. 2181-00, § 4(16-311E.), 11-6-2000)

Sec. 8-376. Compliance checks and inspections.

All premises licensed under this subdivision shall be open to inspection by the city during regular business hours. From time to time the city may conduct compliance checks by engaging minors to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco related devices.

(Ord. No. 2181-00, § 4(16-311F.), 11-6-2000)

Sec. 8-377. Illegal acts.

Unless otherwise provided in this subdivision, the following acts shall be a violation of this subdivision:

- (1) Illegal possession. It shall be a violation of this subdivision for any minor to possess any tobacco, tobacco product or tobacco related device. This subsection shall not apply to minors lawfully involved in a compliance check on behalf of the city.
- (2) Illegal use. It shall be a violation of this subdivision for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco related device.
- (3) Illegal procurement. It shall be a violation of this subdivision for any minor to purchase or attempt to purchase, or otherwise obtain, any tobacco, tobacco product or tobacco related device, and it shall be a violation of this subdivision for any person to purchase or otherwise obtain such items on behalf of a minor. It shall also be a violation of this subdivision for any person to sell or otherwise provide any tobacco, tobacco product or tobacco related device to any minor. It shall be a violation of this subdivision for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco products or tobacco related device. This subsection shall not apply to minors lawfully involved in a compliance check on behalf of the city.

- (4) Use of false identification. It shall be a violation of this subdivision for any minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the minor.

(Ord. No. 2181-00, § 4(16-311G.), 11-6-2000)

Cross reference(s)--Curfew for minors, § 18-121.

Sec. 8-378. Violation; penalty.

(a) *Generally.* Any violation of this subdivision shall be grounds to revoke or suspend a license under this subdivision.

(b) *Criminal penalty.* As set forth in M.S.A. ch. 609, it shall be a:

- (1) Misdemeanor for anyone to sell tobacco or tobacco-related products to a person under the age of 18 years for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.
- (2) Misdemeanor to furnish tobacco or tobacco related devices to a person under the age of 18 years. Whoever violates this paragraph a subsequent time is guilty of a gross misdemeanor.
- (3) Petty misdemeanor for anyone under the age of 18 years who possesses, smokes, chews, or otherwise ingests, purchases, or attempts to purchase tobacco related products.
- (4) Petty misdemeanor for anyone under the age of 18 years to sell, furnish or give away any tobacco related products. This subsection shall not apply to an employee of the license holder under the age of 18 years while such employee is stocking tobacco related products.

(c) *Presumed penalties for Violations:* The presumed penalties for violations are as follows (unless specified, numbers below indicate consecutive business days' suspension):

<i>Type of Violation</i>	1st Violation	2nd Violation within 36 months	3rd Violation within 36 months	4th Violation within 36 months
1. Commission of a felony related to the licensed activity.	Revocation	N/A	N/A	N/A
2. Sale of tobacco while license is under suspension.	Revocation	N/A	N/A	N/A
3. Sale of tobacco to underage person:	\$250	\$750 and 1 day	\$2,000 and 3 days	Revocation
4. Refusal to allow government inspectors or police admission to inspect premises.	5 days	15 days	Revocation	N/A
5. Illegal gambling on premises.	3 days	6 days	18 days	Revocation
6. Failure to attend mandatory education training.	\$250	\$750 and 1 day	\$2,000 and 3 days	Revocation

The penalty for violations without a presumptive penalty shall be determined by the City Council. The imposition of the presumptive penalty shall be a written notice to the licensee and may be appealed through an administrative hearing process as set by the city manager. The city manager's decision may be appealed to the city council by filing a written appeal to the city clerk within ten days of receiving written notice of the city manager's decision.

(d) *Multiple violations:* At a licensee's first appearance before the Council, the Council must act upon all of the violations that have been alleged in the notice sent to the licensee. The Council in that case must consider the presumptive penalty for each violation under the first appearance column in subsection (B) above. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the Council's discretion.

(e) *Subsequent violations:* Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the Council, unless the City Manager and licensee agree in writing to add the violation to the first appearance. The same procedure applies to the second, third, or fourth appearance before the Council.

(f) *Subsequent appearances:* Upon a second, third, or fourth appearance before the Council by the same licensee, the Council must impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the Council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this Section.

(g) *Computation of violations:* Multiple violations are computed by checking the time period of the three (3) years immediately prior to the date of the most current violation.

(h) *Other penalties:* Nothing in this Section shall restrict or limit the authority of the Council to suspend up to sixty (60) days, revoke the license, impose a civil fee not to exceed two thousand dollars (\$2,000.00), to impose conditions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided in this Chapter.

(i) *Additional Requirements.* In addition to civil penalties, every licensee that has been found in violation of this Chapter must enter into and complete an education training program approved by the City's Police Department.

(j) *Exceptions and defenses.* Nothing in this subdivision shall prevent the providing of tobacco, tobacco products or tobacco related devices to a minor as part of a bona fide religious, spiritual or cultural ceremony. It shall be an affirmative defense to a violation of this subdivision for a person to have reasonably relied upon proof of age as set forth by state law.

(Ord. No. 2181-00, § 4(16-311H.), 11-6-2000; Ord. No. 2348-08, 2-1-2008)

Secs. 8-379--8-395. Reserved.

*Subdivision XI. Vehicle Parking Facilities***Sec. 8-396. Licensed required.**

All multilevel and enclosed parking facilities within the city must be licensed. A single license may be issued for vehicle parking facilities that are both multilevel and enclosed, provided all requirements for licensing and all fees under this subdivision are paid.

(Ord. No. 2181-00, § 4(16-312A.), 11-6-2000)

Sec. 8-397. Exceptions.

Enclosed vehicle parking facilities less than 1,000 square feet are exempt from the licensing requirements of this subdivision. This exemption does not apply to enclosed multilevel vehicle parking facilities unless it is part of a single-family residential dwelling.

(Ord. No. 2181-00, § 4(16-312B.), 11-6-2000)

Sec. 8-398. Insurance.

Multilevel parking facility licensees must submit a certificate of insurance providing comprehensive general liability insurance during the term of the license with the application for such license, with insurance limits not less than those as shall be set from time to time by the city and a schedule of such insurance limits are listed in appendix A to this Code.

(Ord. No. 2181-00, § 4(16-312C.), 11-6-2000)

Sec. 8-399. Inspections.

(a) *Enclosed parking facilities.* The vehicle parking facility licensee must provide access to enclosed parking facilities throughout the year as requested by the city to perform air quality and ventilation equipment inspections.

(b) *Multilevel parking facilities.* Multilevel parking facilities must be inspected annually by a qualified civil or structural engineer who is registered and licensed by the state. The engineer must provide evidence of experience in the field of structural or civil engineering.

(c) *Exception.* Multilevel parking facilities less than five years old are exempt from the engineer inspection and reporting requirements set forth in this section.

(Ord. No. 2181-00, § 4(16-312D.), 11-6-2000)

Sec. 8-400. Engineering reports.

An applicant for a multilevel parking facility license must provide with the license application or renewal license application a report signed by the engineer, which report shall provide the following:

- (1) A description of the inspection methods, testing and results.
- (2) A description of the overall condition of the facility and any evidence of deterioration. If any deterioration is identified, the engineer shall identify and specify in the report the deterioration, recommended repairs and the timeframe in which such repairs must be made.
- (3) Certification of the structural integrity of the parking facility indicating whether the structure is capable of supporting the loads for which it is being used.

(Ord. No. 2181-00, § 4(16-312E.), 11-6-2000)

Sec. 8-401. Conditions of license.

(a) The engineer's recommendations as set forth in section 8-400 will be included as a condition of a vehicle parking facility license, and repairs must be corrected within the time specified by the engineer.

(b) The owner of a vehicle parking facility shall not permit vehicles to use such vehicle parking facility without a valid license for the facility.

(c) All ventilating facilities for enclosed vehicle parking facilities shall be kept in good repair and shall meet the requirements of this Code. Carbon monoxide and other toxic gas levels shall comply with applicable city and state regulations.

(Ord. No. 2181-00, § 4(16-312F.), 11-6-2000)

Sec. 8-402. Denial, suspension or revocation of license.

If the engineer determines that the parking structure is incapable of supporting itself or the imposed load from vehicles as set forth in section 8-400(3), then the vehicle parking facility license will be suspended, revoked or denied renewal until modifications have been made to the structure and the engineer submits a followup report indicating that all deficiencies have been corrected.

(Ord. No. 2181-00, § 4(16-312G.), 11-6-2000)

Secs. 8-403--8-420. Reserved.

*Subdivision XII. Pawnbroker****Sec. 8-421. Purpose.**

(a) The city council finds that the use of services provided by pawnbrokers potentially provides an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly. The city council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The purpose of this section is to prevent pawn businesses from being used as facilities for the commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(b) To help the police department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this section also implements and establishes the required use of the automated pawn system (APS).

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-422. Regulations adopted.

The regulations pertaining to pawnbrokers set forth in M.S.A. ch. 325J, as amended, are hereby adopted herein by reference as if fully stated herein.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-423. General provisions apply.

All provisions of Chapter 8, Article II: General Provisions, apply to this section unless stated otherwise in the individual provisions of this section.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-424. License required.

No person shall engage in the business of pawnbroker in the city without first obtaining a license from the city.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-425. Application.

(a) *Form of application.* In addition to any information that may be required by the county pursuant to M.S.A. § 471.924, every application for a license under this section shall be made according to provisions contained in sections 8-36 of this chapter.

***Editor's note--**Ord. No. 2233-02, § 1, adopted Nov. 18, 2002, deleted provisions formerly set out as subdiv. XII of div. 3 of art. II of this chapter. Former subdiv. XII, §§ 8-421--8-425, pertained to pawnbrokers and derived from Ord. No. 2181-00, § 4(16-313A--E), adopted Nov. 6, 2000. Section 2 of Ord. No. 2233-02 added new provisions as subdiv. 12, §§ 8-241--8-437, as herein set out.

(b) *Application verification.* All applications for pawnbroker licenses shall be referred to the police department for verification and investigation of the facts set forth in the application. The police department shall make a written report and recommendation to the city clerk as to issuance or non-issuance of the license. The city clerk may order and conduct such additional investigation as deemed necessary.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-426. Licensee eligibility.

(a) To be eligible for or to maintain a pawnbroker license, a person must operate lawfully and fairly within the purposes of M.S.A. ch. 325J and this section and:

- (1) May not be a minor at the time that the application for a pawnbroker's license is filed;
- (2) May not have been convicted of any crime directly related to the occupation licensed as prescribed by M.S.A. § 364.03, subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S.A. § 364.03, subd. 3; and
- (3) Must be of good moral character or repute.
- (4) Must not hold an intoxicating liquor license within the city.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-427. License restrictions.

(a) *Number of licenses issued.* On the effective date of this subdivision XII, the maximum allowable number of pawnbroker licenses shall be two. Pawnbroker licensees existing on the effective date of this subdivision XII are eligible to apply for renewal at the existing licensed premises, and if renewed, may continue until the license for that licensed premises is revoked or is not renewed.

(b) *License transfer not allowed.* Each license under this section shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give, or assign a license to another person.

(c) *Inactive license.* The city council may revoke the pawn license of any business that shows no pawn activity for a period of six months. A hearing shall be held to determine the status of the pawn operation and if satisfactory intent to do business under the license is not demonstrated, the city council may revoke the license.

(d) *Premises.* A license under this division shall be issued only for the exact rooms and square footage of the premises described in the application.

(e) *Zoning requirements met.* No license shall be granted until all applicable zoning requirements are met or until all conditions for approval of the use have been satisfied.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-428. Fees.

(a) *Investigation fee.* An applicant for any license under this chapter shall, at the time an original application is submitted, pay the city a nonrefundable investigation fee as set from time to time by the city council and listed in appendix A to this Code, to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section.

(b) *License fee.* The licensee shall pay an annual license fee as set from time to time by the city council and listed in appendix A to this Code.

(c) *Billable transaction fees.* Licensees shall pay a monthly transaction fee on all billable transactions as defined in section 8-429(b). Such fee shall be as set from time to time by the city council and listed in appendix A to this Code. Billable transaction fees are payable within 30 days. Failure to timely pay the billable transaction fee shall constitute a violation of this section.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-429. Transactions.

(a) *Reportable transactions.* Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended, redeemed or voided, is a reportable transaction except:

- (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
- (2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

(b) *Billable transactions.* Billable transactions are defined as every reportable transaction conducted by a pawnbroker, except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-430. General operating requirements.

(a) *Records required.* At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

- (1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

- (2) The purchase price, amount of money loaned upon, or pledged therefor.
- (3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- (4) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records. Transaction identifiers must be consecutively numbered.
- (5) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.
- (6) The state of issue and identification number from a current valid photo driver's license or a current valid state photo identification card from any state or from any province of Canada.
- (7) The signature of the person identified in the transaction.

(b) *Photographs required.* Effective 90 days from the effective date of this subdivision XII, the licensee must also take a color photograph or color video recording of:

- (1) Each customer involved in a billable transaction.
- (2) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.
- (3) Photographs must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months, and furnish it to the police department upon request.

(c) *Digitized photographs.* Licensees may fulfill the color photograph requirements in subsection 8-430 (b) by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in subsection 8-430(b).

(d) *Renewals, extensions and redemptions.* For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(e) *Disposition of articles.*

- (1) When an article of pawned or pledged property is redeemed from a licensee, the records shall contain an account of such redemption with the date, interest charges accrued, and the total amount for which the article was redeemed.
- (2) When an article of purchased or forfeited property is sold or disposed of by a licensee and the licensee receives \$100.00 or more in the payment thereof, the records shall contain an account of such sale with the date, the amount for which the article was sold, and the full name, current address, and telephone number of the person to whom sold.

(f) *Inspection of records.* The records must at all reasonable times be open to inspection by the police department or department of licenses and consumer services. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(g) *Daily reports to police.* Effective 90 days from the effective date of this subdivision XII, licensees must submit every reportable transaction to the police department daily in the following manner:

- (1) Licensees must provide to the police department all information required in section 8-430 (a) through (f) and other required information, by transferring it from their computer to the automated pawn system via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority using procedures that address security concerns of the licensees and the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the police department daily.
- (2) Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department.
- (3) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department printed copies of all reportable transactions along with the video tape(s) for that date, by 12:00 [noon] the next business day;
- (4) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports as detailed in section 8-430(g)(3), and must be charged a \$50.00 reporting failure penalty, daily, until the error is corrected; or

- (5) If the problem is determined to be outside the licensee's system, the licensee must provide the required reports in section 8-430(g)(3), and resubmit all such transaction via modem when the error is corrected.
- (6) If a licensee is unable to capture, digitize or transmit the photographs required in section 8-430(c), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request.
- (7) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.
- (8) The police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(h) *Receipt required.* Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:

- (1) The name, address and telephone number of the licensed business.
- (2) The date and time the item was received by the licensee.
- (3) Whether the item was pawned or sold, or the nature of the transaction.
- (4) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction.
- (6) The amount advanced or paid.
- (7) The monthly and annual interest rates, including all pawn fees and charges.
- (8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- (9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller.
- (10) The state of issue and identification number from a current valid photo driver's license or a current valid state photo identification card from any state or from any province of Canada.
- (11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.
- (12) The signature of the pledger or seller.

- (13) All printed statements as required by M.S.A. § 325J.04, subd. 2, or any other applicable statutes.

(i) *Redemption period.* Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90 day holding period, items may not be removed from the licensed location except as provided in section 8-430(s). Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the police license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with section 8-430(h).

(j) *Holding period.* Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

(k) *Police order to hold property.*

(1) *Investigative hold.* Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to section 8-430(k)(2), whichever comes first.

(2) *Order to hold.* Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief or the chief's designee. The order to hold shall expire 90 days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.

(l) *Order to confiscate.* If an item is identified as stolen or evidence in a criminal case, the police chief or chief's designee may:

- (1) Physically confiscate and remove it from the shop, pursuant to a written order from the police chief or the chief's designee, or
- (2) Place the item on hold or extend the hold as provided in section 8-430(k) (2), and leave it in the shop.
- (3) When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

- (4) When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee shall so notify the licensee.

(m) *Inspection of items.* At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in section 8-430(s), during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.

(n) *Label required.* Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(o) *License display.* A license issued under this section must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.

(p) *Responsibility of licensee.* A licensee under this section shall be responsible for the conduct of the business being operated and shall maintain conditions of order. The conduct of agents or employees of a licensee, engaged in performance of duties for the licensee, shall be deemed the conduct of the licensee.

(q) *Gambling.* No licensee under this section may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under M.S.A. ch. 349, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S.A. ch. 349A.

(r) *Penalty for property owner.* It is unlawful for any person who owns or controls real property to knowingly permit it to be used for pawn brokering without a license.

(s) *Property to be kept on premises.* All property deposited, left, pledged, pawned, or held for sale must be stored in an enclosed facility and may not be stored outside of the premises. The city may, however, permit the licensee to designate one off premises locked and secured facility in which the licensee may store only cars, boats, and other motorized vehicles. The licensee shall permit immediate inspection of the facility at any time during business hours by the city. All provisions in this section regarding record keeping and reporting shall apply to oversized items. All property shall be stored in compliance with zoning and/or fire regulations and in an orderly manner subject to inspection by the fire department. The premises shall also be equipped with an operational security alarm.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-431. Restricted transactions.

(a) *Hours of operation.* No pawnbroker shall keep the pawnbroker business open for the transaction of business on any day of the week before 7:00 a.m. or after 10:00 p.m.

(b) *Minors.* The pawnbroker shall not purchase or receive personal property of any nature on deposit or pledge from any minor.

(c) *Prohibited goods.* No licensee under this section shall accept any item of property which contains an altered or obliterated serial number or "operation identification" number or any item of property whose serial number has been removed.

(d) *Security interest.* No licensee nor any agent or employee of a licensee shall purchase, accept, or receive any article of property knowing, or having reason to know, that the article of property is encumbered by a security interest. For the purpose of this section, "security interest" means an interest in property which secures payment or other performance of an obligation.

(e) *True owner.* No licensee nor any agent or employee of a licensee shall purchase, accept, or receive any article of property, from any person, knowing, or having reason to know, that said person is not the true and correct owner of the property.

(f) *Proper identification.* No licensee nor any agent or employee of a licensee shall purchase, accept, or receive any article of property, from any person, without first having examined a current valid photo driver's license or a current valid state photo identification card from any state or from any province of Canada.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-432. Inspections by police or claimed owner.

(a) *Premises.* Any licensee shall, at all times during the term of the license, allow the police department to enter the premises, where the licensee is carrying on business, including all off-site storage facilities as authorized in section 8-430(s), during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the articles and records therein to locate goods suspected or alleged to have been stolen and to verify compliance with this section or other applicable laws. No licensee shall conceal any article in his possession from the police department.

(b) *Property.* All articles of property coming into the possession of any licensee shall be open to inspection and right of examination of any police officer or any person claiming to have been the owner thereof or claiming to have had an interest therein when such person is accompanied by a police officer.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-433. Conduct of persons on licensed premises.

(a) *Property of another.* No person may pawn, pledge, sell, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, leave, or deposit any article of property in which another has a security interest; with any licensee.

(b) *Minors.* No minor may pawn, pledge, sell, leave, or deposit any article of property with any licensee.

(c) *Proper identification.* No person may pawn, pledge, sell, leave or deposit any article of property with any licensee without first having presented a current valid photo driver's license or a current valid state photo identification card from any state or from any province of Canada.

(d) *False identification.* No person seeking to pawn, pledge, sell, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false driver's license or identification card; to any licensee.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-434. Required signage.

(a) All licensees shall by adequate signage and separate written notice inform persons seeking to pawn, pledge, sell, leave, or deposit articles of property with the licensee of the foregoing requirements.

- (1) For the purpose of this subsection, "adequate signage" shall be deemed to mean at least one sign of not less than four square feet in surface area, comprised of lettering of not less than three-quarters of an inch in height, posted in a conspicuous place on the licensed premises and stating substantially the following:

TO PAWN OR SELL PROPERTY:

YOU MUST BE AT LEAST 18 YEARS OF AGE.

YOU MUST BE THE TRUE OWNER OF THE PROPERTY.

THE PROPERTY MUST BE FREE OF ALL CLAIMS AND LIENS.

YOU MUST PRESENT VALID PHOTO IDENTIFICATION.

VIOLATION OF ANY OF THESE REQUIREMENTS IS A CRIME.

- (2) For the purpose of this subsection, "separate written notice" shall be deemed to mean either the receipt, as required in section 8-430(h), or a printed form, incorporating a statement to the effect that the person pawning, pledging, selling, leaving, or depositing the article is at least 18 years of age; is the true owner of the article; and that the article is free of all claims and liens; which is acknowledged by way of signature of the person pawning, pledging, selling, leaving, or depositing the article.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-435. General restrictions.

- (a) No pawnbroker licensed under this section shall:
- (1) Lend money on a pledge at a rate of interest above that allowed by law;
 - (2) Knowingly possess stolen goods;
 - (3) Sell pledged goods before the time to redeem has expired;
 - (4) Refuse to disclose to the city, after having sold pledged goods, the name of the purchaser or the price for which the item sold; or
 - (5) Make a loan on a pledge to a minor.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-436. Suspension or revocation of license.

(a) The city council may suspend or revoke a license issued under this section upon a finding of a violation of:

- (1) Any of the provisions of this section;
- (2) Any state statute regulating pawnbrokers; or
- (3) Any state or local law relating to moral character and repute.

(b) A revocation or suspension by the city council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the pawnbroker. The notice may be served upon the pawnbroker personally or by United States mail addressed to the most recent address of the business in the license application.

(Ord. No. 2233-02, § 2, 11-18-2002)

Sec. 8-437. Penalty.

Violation of any provision of this subdivision shall be a misdemeanor.

(Ord. No. 2233-02, § 2, 11-18-2002)

Secs. 8-438--8-440. Reserved.

*Subdivision XIII. Dog Kennels****Sec. 8-441. License required.**

No person shall operate or maintain any dog kennel within the city without first obtaining a dog kennel license from the city.

(Ord. No. 2181-00, § 4(16-314A.), 11-6-2000)

Sec. 8-442. Regulations adopted.

(a) *Fencing.* Every dog kennel shall be enclosed or fenced in such manner as to prevent the running at-large or escape of dogs confined in such kennel.

(b) *Humane operation.* Every kennel shall be operated in a clean, healthful, sanitary, safe condition, and in a humane manner as determined by the city's health authority, and failure to do so shall constitute grounds for a revocation of the dog kennel license of such kennel.

(Ord. No. 2181-00, § 4(16-314B.), 11-6-2000)

Secs. 8-443--8-460. Reserved.*Subdivision XIV. Billboards***Sec. 8-461. License required.**

No person shall locate, operate or maintain a billboard on the person's property without first obtaining a billboard license from the city.

(Ord. No. 2181-00, § 4(16-315A.), 11-6-2000)

Sec. 8-462. Inspections.

Prior to the issuance of a billboard license or renewal of a billboard license, or at such times as the city's inspector deems necessary, the city shall inspect a billboard to determine whether the structure is secure or insecure, whether such billboard is in need of repair or removal, whether the surrounding site is properly maintained and whether the billboard is in compliance with all applicable city Code and zoning requirements. The applicant or licensee shall pay the inspection fee which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code.

(Ord. No. 2181-00, § 4(16-315B.), 11-6-2000)

Sec. 8-463. Regulations adopted.

(a) *Structure.* The structure of a billboard must be structurally sound.

(b) *Sign copy.* The sign copy of a billboard must be in good condition and securely attached to the structure.

*Cross reference(s)--Animals, ch. 4.

(c) *Exterior.* The paint or finish coating of a billboard must be in good condition and must not be peeling.

(Ord. No. 2181-00, § 4(16-315C.), 11-6-2000)

Secs. 8-464--8-485. Reserved.

DIVISION 4. TEMPORARY USES

Subdivision I. In General

Sec. 8-486. Applicability of division.

The general provisions provided under this subdivision shall apply to all temporary use permits required under this division, except as otherwise provided under the specific temporary use permitting provision set forth in this division.

(Ord. No. 2181-00, § 4(16-401(intro. ¶)), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-487. Permit required.

Any person or business intending to engage or perform an activity regulated by this division must first obtain a permit for such activity from the city.

(Ord. No. 2181-00, § 4(16-401A.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-488. Application and authorization.

(a) The application for a permit under this division may require the applicant to submit a signed authorization from the property owner if different from the applicant. Such authorization may be required to be on a form supplied by the city in cases where the owner would be responsible for any damage or cleanup that the temporary use may create. The authorization shall include a right of entry for the city, authorizing the city to enter the property identified in the permit and to abate any nuisance by cleaning up the trash and debris resulting from the temporary use of the property, e.g., trash, trees, etc., if the permittee and/or property owner have failed to clean up the property within 48 hours after the temporary use has ended, and to charge the property owner for the city's cost incurred in cleaning up the property.

(b) The applicant for a permit under this division must provide dates and locations for such temporary use as set forth on the provided application.

(Ord. No. 2181-00, § 4(16-401B.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-489. Carrying or posting permit.

(a) Permittees under this division shall carry the permit at all times when conducting the permitted activity, or post the permit in the place of business near the permitted activity.

(b) If a machine or other device is permitted under this division, the city may provide a sticker for the current permit year, which shall be affixed to the front or clearly visible part of each machine or device requiring such permit.

(c) Every permittee under this division shall display the permit upon demand by any officer or citizen.

(Ord. No. 2181-00, § 4(16-401C.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-490. Transferability.

No permit issued under this division shall be transferable between persons, businesses or different locations other than those persons, businesses and locations identified on the permit.

(Ord. No. 2181-00, § 4(16-401D.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-491. Restoration of permitted property.

A permittee under this division and/or the property owner shall clean up the permitted property and restore such property to its original condition within 48 hours of the completion of the permitted event or the city may clean up the property and charge the cost of such clean up to the property owner.

(Ord. No. 2181-00, § 4(16-401E.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Secs. 8-492--8-510. Reserved.

Subdivision II. Food Service

Sec. 8-511. Permit required.

(a) No person shall operate a food stand or mobile food service without obtaining a permit from the city.

(b) A temporary food service permit may authorize temporary food service on multiple days, consecutively, for multiple occasions. The multiple occasions must be at the same location with identical setup and service as approved.

(Ord. No. 2181-00, § 4(16-402A.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-512. Application.

(a) The application for a temporary food service permit must be submitted a minimum of seven business days before the scheduled event, and the applicant must provide all information required by the health authority.

(b) The temporary food service permit application must identify all dates and locations at which temporary food service shall be conducted.

(Ord. No. 2181-00, § 4(16-402B.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-513. Inspection.

Prior to issuance of a temporary food service permit, and following each setup and removal of the food service to be provided under the permit, an applicant for a temporary food service permit must be inspected by the city's health authority for compliance with the city's food code.

(Ord. No. 2181-00, § 4(16-402C.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-514. Fees.

Temporary food service permit fees shall be based on single or multiple setup, and shall be set from time to time by the city and a schedule of such fees are listed in appendix A to this Code.

(Ord. No. 2181-00, § 4(16-402D.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Secs. 8-515--8-530. Reserved.*Subdivision III. Outdoor Retail Sales***Sec. 8-531. Permit required.**

No person may participate in any outdoor retail sales within the corporate limits of the city without first obtaining a permit. Exception: Outdoor retail sales may be conducted in public parks or closed right-of-way without a permit if offered in conjunction with activities sponsored by the parks and recreation department or approved by the director of parks and recreation.

(Ord. No. 2181-00, § 4(16-403A.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2235-03, § 1, 3-3-2003)

Sec. 8-532. Application and authorization.

(a) Applicants for a temporary outdoor retail sales permit must submit a completed application for such permit a minimum of seven business days before the scheduled date of the sale, and all other required permits and inspections must be obtained prior to commencement of the sale.

(b) The applicant for a temporary outdoor retail sales permit must submit, with the application, written permission of the owner of the property identified in the application for the location of the temporary outdoor retail sales, if other than the applicant, to conduct the temporary outdoor retail sales as provided in the application.

(Ord. No. 2181-00, § 4(16-403B.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-533. Term of permit.

The term of a temporary outdoor retail sales permit shall be as stated on the permit. The term of a temporary outdoor retail sales permit for the temporary outdoor sales of Christmas trees shall be the period from November 15 to December 28.

(Ord. No. 2181-00, § 4(16-403C.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Secs. 8-534--8-550. Reserved.*Subdivision IV. Circuses, Carnivals, Amusement Places and Petting Zoos***Sec. 8-551. Permit required.**

No person shall conduct a circus, carnival, amusement ride or petting zoo within the corporate limits of the city without first obtaining a permit from the city.

(Ord. No. 2181-00, § 4(16-404A.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-552. Application.

(a) The application for a permit for a circus, carnival, amusement ride or petting zoo and permit fee must be submitted at least 14 days prior to the date of the circus, carnival, amusement ride or petting zoo.

(b) The applicant for a circus, carnival, amusement ride or petting zoo permit shall list on the application the location, times and dates that the permitted activity will be conducted, any additional equipment which might require another permit and all other pertinent health and fire safety information relevant to the event.

(Ord. No. 2181-00, § 4(16-404B.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-553. Insurance.

The applicant for a circus, carnival, amusement place or petting zoo permit, which event is to be held on city property, must submit a certificate of liability insurance with the permit application, providing a general comprehensive general liability insurance policy in an amount not less than the amount which shall be set from time to time by the city and a schedule of such insurance rates are listed in appendix A to this Code, including personal injury liability, death and property damage liability. The insurance must be maintained for the duration of the permit and activity.

(Ord. No. 2181-00, § 4(16-404C.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Sec. 8-554. Conditions of permit.

Permittees under this subdivision must comply with the following conditions for an activity permitted under this subdivision:

- (1) *Supplying special officer.* If the city deems it necessary that additional police supervision shall be supplied for any activity permitted under this subdivision, the city may require the permittee, as a condition of the permit and for the duration of the permit, to advance and pay the salary of one or more special police officers to be appointed by the city to police the premises permitted during the permitted event.

- (2) *Regulations.* No person to whom a permit is issued under this subdivision, or any manager, agent or employee of such person, or any other person, shall exhibit, show, display, perform or do any immoral, vicious or disgraceful act or thing, or install any dangerous device or equipment for the use of patrons or visitors; or create such noise or other disturbance as to seriously affect the peace, health or morals of the city; or create or permit the maintenance of any nuisance upon or about the premises where the carnival is in operation, and all lands and premises used for carnival purposes shall be maintained and kept in a clean condition, free from litter and papers, so as to prevent such materials from being carried from the premises by wind, and the surface of the ground shall be maintained so as to prevent dust from being carried from the premises by the wind to adjoining property.

(Ord. No. 2181-00, § 4(16-404D.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001)

Secs. 8-555--8-570. Reserved.

*Subdivision V. Peddlers, Solicitors and Transient Merchants**

Sec. 8-571. License required; exemptions.

(a) It shall be unlawful for any person to engage in the business of peddler or solicitor within the City without first obtaining a license from the city; provided that the following are exempt from the provisions of this section:

- (1) Any person taking orders for goods sold by a political, religious, educational, or nonprofit organization as part of fundraising activities.
- (2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- (3) Any person who sells or attempts to sell or takes or attempts to take orders for any product grown, produced, cultivated, or raised on any farm.
- (4) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.
- (5) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- (6) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (7) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- (8) Any person participating in an organized multi-person bazaar or flea market.
- (9) Any person conducting an auction as a properly licensed auctioneer.
- (10) Any officer of the court conducting a court-ordered sale.

(b) Persons whose activities are exempted from the licensing requirement shall comply with any other applicable statutory or ordinance provision, including Section 8-578.

***Cross reference(s)**--Streets, sidewalks and other public places, ch. 24.

(Ord. No. 2181-00, § 4(16-405A.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-572. Application.

An application for a license shall be made at least fourteen (14) business days before the person desires to begin conducting a business operation within the city. Each individual seeking to conduct business as a peddler or solicitor shall complete an application. Application for a license shall be made on a form provided by the City which shall include the following information:

- (1) Full legal name;
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to;
- (3) Physical description (i.e., hair color, eye color, height, weight, any distinguishing marks or features, and the like);
- (4) Permanent address and telephone number;
- (5) Temporary address and telephone number;
- (6) Full legal name of any and all business operations owned, managed, or operated by the applicant;
- (7) Brief description of the business or activity to be conducted and a general description of the items to be sold or the services to be provided;
- (8) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;
- (9) Address and telephone numbers, including cellular phones and facsimile, of regular place of business, if any exists;
- (10) Hours, date(s) and locations in the City which the applicant intends to conduct business;
- (11) A copy of a current government issued identification and complete a license application addendum authorizing the city to conduct a criminal background investigation;
- (12) License plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the business;
- (13) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city;
- (14) A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses;
- (15) A list of the three (3) most recent city or county locations where the applicant has conducted business as a peddler or solicitor;
- (16) Proof of possession of any license or permit that, under federal, state, or county law, regulation, or ordinance, is required to have in order to conduct the proposed business; and
- (17) Any and all additional information as may be deemed necessary by the Chief of Police.
- (18) The applicant shall have a continuing duty to immediately disclose to the city any change in the information supplied in the application.

(Ord. No. 2181-00, § 4(16-405B.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-573. Fees.

Except for solicitors engaged in Interstate Commerce, which are specifically exempted from paying any fee under this chapter, all applications for a license shall be accompanied by the fee set from time to time by the City and a schedule of such fee is listed in appendix A to this Code. (Ord. No. 2181-00, § 4(16-405C.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-574. Application review and license issuance.

(a) Upon receipt of the application and payment of any required license fee, City will determine if the application is complete. An application will be considered complete if all required information is provided. If the City determines that the application is incomplete, the City must inform the applicant of the required, necessary information that is missing. If the application is complete, the City must order any investigation, including criminal background checks, necessary to verify the information provided with the application. Within fifteen (15) days of receiving a complete application the City will issue the license unless grounds exist for denying the license application under Sec. 8-575.

(b) A license granted under this subdivision shall be valid for one year.

(c) No license issued under this subdivision shall be transferred to any other person other than the person to whom the license was issued. (Ord. No. 2181-00, § 4(16-405E.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-575. Denial of license

(a) The following shall be grounds for denying a peddler or solicitor license:

- (1) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
- (2) The failure of an applicant to sign the license application.
- (3) The failure of an applicant to pay the required fee at the time of application.
- (4) A conviction with the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- (5) The revocation with the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- (6) Evidence of a bad business reputation of the applicant, or organization represented by the applicant, including, but not limited to, the existence of more than three (3) complaints against an applicant, or organization represented by the applicant, with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant, or organization represented by the applicant, within the preceding five (5) years.
- (7) Other good cause.

(b) If the City denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within ten (10) days of receiving notice of denial, a hearing before the City Manager. The City Manager or designee shall hear the appeal within fifteen (15) days of the date of the request for a hearing. The decision of the City Manager or designee shall be final and binding on all parties concerned. (Ord. No. 2181-00, § 4(16-405E.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2381-10, 4-30-2010))

Sec. 8-576. Identification badges.

At the same time the license is issued, the Chief of Police or designee shall issue to each licensee a badge, which shall be worn by the licensee in such a way as to be conspicuous at all times while the licensee is conducting business in the city. The identification badge shall include the licensee's photograph, name, license number, company name, and the license expiration date. (Ord. No. 2181-00, § 4(16-405F.), 11-6-2000; Ord. No. 2198-01, § 3, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-577. License suspension or revocation.

(a) Any license issued under this subdivision may be immediately suspended or revoked by the City for good cause, including, but not limited to, the following:

- (1) Engaging in any activity prohibited by Section 8-578.
- (2) Violating Section 8-575 or any other provision of the City Code.
- (3) Conducting the licensed activity in such a manner as to create a public nuisance, constitute breach of peace or endanger the health, safety, or general welfare of the public.
- (4) Other good cause.

(b) Notice of a suspension or revocation shall be provided in writing and delivered to the licensee in person or by mail to the permanent residential address provided on the license application and shall set forth specifically the grounds for the Chief of Police or designee's decision to suspend or revoke the license and inform the licensee of his or her right to appeal the decision to the City Manager in writing within fifteen (15) days following the service of the notice. The license remains suspended or revoked during the appeal process. A hearing shall be conducted by the City Manager or designee within fifteen (15) days from the date of receipt of the appellant's written appeal. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the service of the revocation notice. The decision of the City Manager or designee on the appeal shall be final and binding on all parties concerned.

(Ord. No. 2181-00, § 4(16-405G.), 11-6-2000; Ord. No. 2198-01, § 1, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-578. Activities prohibited.

No peddler, solicitor, canvasser or transient merchant shall conduct business in any of the following manners:

- (1) Call attention to business or goods by crying out, blowing a horn, ringing a bell, or making any loud or unusual noise.
- (2) Furnish false information, or failing to furnish information as required for registration under this subdivision.
- (3) Sell merchandise or services, or solicit funds, by means of statements which the person making them knows or should know are false or misleading.

- (4) Sell merchandise which is not of merchantable quality or is not fit for the purpose for which the seller knows or has reason to know the merchandise is being purchased.
- (5) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- (6) Conducting business in a way as to create a threat to the health, safety, or welfare of any specific individual or the general public.
- (7) Conducting business before 9:00 am or after 8:00 pm.
- (8) Failing to provide proof of license, registration or identification when requested.
- (9) Using the license or registration of another person.
- (10) Making false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or registration to that person.
- (11) Remaining on the property of another person after being requested to leave.
- (12) Otherwise operating the business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

(Ord. No. 2181-00, § 4(16-405H.), 11-6-2000; Ord. No. 2198-01, § 1, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Sec. 8-579. Entry upon premises unlawful.

It shall be unlawful for any person while conducting the business of a peddler or solicitor to entered upon any premises in the City where the owner, occupant, or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words “No Peddlers,” “No Solicitors,” or words of similar import.

(Ord. No. 2181-00, § 4(16-405I.), 11-6-2000; Ord. No. 2198-01, § 1, 5-21-2001; Ord. No. 2381-10, 4-30-2010)

Secs. 8-580--8-584. Reserved.

Subdivision VI. Special Events on City Property

Sec. 8-585. Purpose and intent.

This subdivision is limited to provide for the issuance of permits for any festival, fair, art fair, parade, community gathering, or promotional event held on city property or on any right-of-way in the city.

(Ord. No. 2198-01, § 1, 5-21-2001)

Sec. 8-586. Permit.

(a) *Required.* No person shall hold or operate a special event as described in section 8-585 on any public street, road, alley, right-of-way, public facility or public place owned by the city, or over which the city has the right of control for a special event as described in section 8-585, without having first obtained a permit for such use from the city.

(b) *Exceptions.*

- (1) Activities conducted by or held by the city are exempt from all provisions of this section.
- (2) Community gathering applications for block parties are exempt from the seven-day advance application submittal requirement.

(c) Application.

- (1) Applications for a permit under this division shall be made to the city in accordance with section 8-35.
- (2) Applications must be submitted at least seven working days prior to the scheduled special event and or use of the right-of-way.
- (3) All permittees shall agree by obtaining a permit to defend, indemnify and hold harmless the city from any and all losses, costs, damages and expenses on account of activity of the permittee on the public property which is the subject of the permit.
- (4) A permit issued under this division may require the permittee to reimburse the city for costs incurred in the use of city equipment for any assignment of municipal employees, including police and fire personnel, to duty in connection with the activities which are the subject of the permit. The issuing authority shall provide the permit applicant with a list of anticipated costs after conducting the review provided for.

(Ord. No. 2198-01, § 1, 5-21-2001)

Sec. 8-587. Regulations.

(a) A permit will not be issued by the city if it is determined that the activity would result in undue traffic congestion, be unduly disruptive to the normal activities of citizens, create an unreasonable risk to persons or property, or otherwise be detrimental to the public health, safety, morals or welfare.

(b) The city may require that the actual conduct of a particular activity or any portion thereof only be accomplished with the direct approval and/or supervision of the police department and/or fire officials, or any other technical advisors deemed necessary to protect persons or property as it relates to the activity for which the permit has been issued.

(c) The public property to which the permit relates shall at all times be made accessible to fire, police and other emergency personnel. The permit in no way shall limit the authority of fire, police or emergency personnel to protect the public health, safety or welfare.

(d) The permittee shall be responsible for restoring any area used pursuant to a permit issued under this subdivision to an equal or better condition as it was prior to use by the permittee.

(e) The city may prepare an invoice to the permittee for services provided during the event. The permittee must submit payment for services in accordance with statute.

(f) Receiving a special event permit does not waive any other license, permit or other requirements of this Code.

(Ord. No. 2198-01, § 1, 5-21-2001)

Secs. 8-588--8-592. Reserved.

*Subdivision VII. Television or Movie Production on City Property***Sec. 8-593. Purpose and intent.**

This subdivision is intended to provide for the issuance of permits for any and all activity related to television or movie production on city property or the public right-of-way. For the purpose of this subdivision, motion picture or television production includes, but is not limited to, setup, staging, filming, videotaping or tearing down materials or equipment, relating to the production of visual materials to be used in connection with a commercial undertaking, including, but not limited to, motion pictures, film shorts, music or entertainment videos, television presentations, advertising, or commercial materials of any kind of motion picture or television production.

(Ord. No. 2198-01, § 1, 5-21-2001)

Sec. 8-594. Permit.

(a) *Required.* No person shall use any public street, road, alley, right-of-way, public facility or public place owned by the city, or over which the city has the right of control for motion picture or television production, without having first obtained a permit for such use from the city.

(b) *Exceptions.*

- (1) The provisions of this section shall not apply to the filming or videotaping of persons, scenes, occurrences or events, which is done for news gathering purposes in the general public interest, for use in criminal investigations by law enforcement agencies or for use in any judicial proceedings.
- (2) The provisions of this section do not apply to, nor are they intended to affect, any motion picture or television studio operating at an established or fixed place of business within the city.
- (3) Activities conducted or held by the city are exempt from the provisions of this section.

(c) *Application.*

- (1) Applications must be submitted to the city seven business days prior to the scheduled event.
- (2) A security deposit in the amount of the city estimate of services will be collected before a permit is issued and held in escrow until after the scheduled event is complete. The deposit shall be either cash or a cashier's check.
- (3) No permit shall be issued under this subdivision until the applicant for the permit provides a certificate of insurance to the city, showing combined single-limit coverage for bodily injury and property damage of not less than \$1,000,000.00, and basic workers' compensation insurance, as provided in the laws of the state. This certificate of insurance shall name the city as additionally insured. If the city determines that the risks

inherent in the proposed activity would not adequately be covered by the basic coverage stated in this subsection, the city may require that a higher level of insurance coverage be obtained prior to issuance of the permit.

- (4) All permittees shall agree by obtaining a permit to defend, indemnify and hold harmless the city from any and all losses, costs, damages and expenses on account of activity of the permittee on the public property which is the subject of the permit.
- (5) The city shall review the application with the assistance of fire, police, risk management and traffic engineering officials, and such other members of the city staff as may be required by the nature of the activity proposed for the permit.
- (6) Any permit issued under this subdivision shall require the permittee to reimburse the city for any costs incurred in the use of city equipment or any assignment of municipal employees, including police and fire personnel, to duty in connection with the activities which are the subject of the permit. The issuing authority shall provide the permit applicant with a list of anticipated costs after conducting the review before a permit is issued.

(d) *Application fee.* A nonrefundable permit application fee, as set by city council resolution, must be submitted at the time of application.

(Ord. No. 2198-01, § 1, 5-21-2001)

Sec. 8-595. Regulations.

(a) The city may impose reasonable general conditions to govern the relationship of the city and the permittee in respect to the health, safety, and general public welfare as it relates to the activity for which the permit has been issued. The city may require that the actual conduct of a particular activity or any portion thereof only be accomplished with the direct approval and/or supervision of the police department and/or fire officials, or any other technical advisors deemed necessary to protect persons or property.

(b) The public property to which the permit relates shall at all times be made accessible to fire, police and other emergency personnel. The permit in no way shall limit the authority of fire, police, or emergency personnel to protect the public health, safety or welfare.

(c) The permittee shall be responsible for restoring any area used pursuant to a permit issued under this subdivision to equal or better condition as it was prior to use by the permittee.

(d) The information required by subsection (a) of this section may be amended by the authorized agent of the permit holder, provided that such amendments are submitted in writing and receive the written approval of the city.

(e) A permit will not be issued by the city if it is determined that the activity would result in undue traffic congestion, be unduly disruptive to the normal activities of citizens, create an unreasonable risk to persons or property, or otherwise be detrimental to the public health, safety, morals or welfare. When the application for a permit is denied, the reasons for such denial shall be given.

(Ord. No. 2198-01, § 1, 5-21-2001)

Secs. 8-596--8-600. Reserved.

DIVISION 5. ANIMALS

Subdivision I. In General

Sec. 8-601. Applicability of division.

The general provisions provided under this subdivision shall apply to all animal licenses required under this division, except as otherwise provided under the specific animal licensing provision under this division.

(Ord. No. 2181-00, § 4(16-501(intro. ¶)), 11-6-2000)

Sec. 8-602. License required.

(a) The owner or keeper of any animal regulated by this division must obtain an animal license from the city for such animal.

(b) The city shall issue animal licenses for a one-, two- or three-year period beginning with the date of rabies vaccination of the animal. The applicant must request the length of the license on the license application. No license will be issued beyond the expiration date of the submitted rabies vaccination certificate.

(c) For all dogs with rabies vaccinations that expire during 2001, the city shall issue an interim license from February 1, 2001, through the expiration of the dog's rabies vaccination for the interim license fees as shall be set from time to time by the city and a schedule of such fees are listed in appendix A to this Code. Upon the expiration of the dog's rabies vaccination, the owner shall be required to obtain the regular animal license required under subsections (a) and (b) of this section.

(Ord. No. 2181-00, § 4(16-501A.), 11-6-2000)

Sec. 8-603. Expiration.

Every animal license under this division will expire on the same date in which the animal's rabies vaccination expires.

(Ord. No. 2181-00, § 4(16-501B.), 11-6-2000)

Sec. 8-604. Renewal.

Renewal applications for animal licenses must be submitted prior to the expiration of the previous license date. Rabies certificates must be submitted to the city with the renewal license application.

(Ord. No. 2181-00, § 4(16-501C.), 11-6-2000)

Sec. 8-605. Carrying of license.

All animals required to be licensed by the city under this division shall display the license tag as issued by the city. License tags shall be worn around the neck of the animal, and shall be securely fastened to a collar. Expired tags shall not be worn.

(Ord. No. 2181-00, § 4(16-501D.), 11-6-2000)

Sec. 8-606. Transferability.

No license under this division shall be transferable between animals. A license may be transferred from one owner of a licensed animal to another owner of the same animal, provided the appropriate transfer fee as shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code is paid to the city.

(Ord. No. 2181-00, § 4(16-501E.), 11-6-2000)

Secs. 8-607--8-625. Reserved.*Subdivision II. Dogs****Sec. 8-626. License required.**

No person shall own, keep or harbor any dog over the age of 16 weeks without first obtaining a dog license from the city.

(Ord. No. 2181-00, § 4(16-502A.), 11-6-2000)

Sec. 8-627. Service dog license fee exemption.

Service dogs which are used for the purpose of assisting persons with disabilities are exempt from the license fee required under this subdivision, provided that a certification of assistance training from a recognized school or program is submitted with the dog license application.

(Ord. No. 2181-00, § 4(16-502B.), 11-6-2000)

Sec. 8-628. Rabies vaccination.

All dogs licensed under this subdivision must have a current rabies vaccination.
(Ord. No. 2181-00, § 4(16-502C.), 11-6-2000)

*Cross reference(s)--Dogs, § 4-81 et seq.

Sec. 8-629. Regulations adopted.

All persons owning, keeping or harboring any dog within the city shall comply with the regulations adopted under chapter 4 of this Code.

(Ord. No. 2181-00, § 4(16-502G.), 11-6-2000)

Secs. 8-630--8-660. Reserved.**ARTICLE III. COURTESY BENCHES****Sec. 8-661. License required.**

(a) Any person placing or maintaining any courtesy bench on any public sidewalk or any public right-of-way along a street or thoroughfare, or any private property, for public use within the city shall first obtain a license for such courtesy bench. Courtesy benches must conform to the provisions provided in this article.

(b) The applicant for a courtesy bench license shall submit a current list of the requested location of the courtesy bench to be licensed with the initial license application. A single license will be issued to the applicant for multiple courtesy bench locations.

(c) A maximum of 50 courtesy bench locations shall be allowed within the city.

(d) The courtesy bench licensee must receive approval from the city before any courtesy bench location may be changed. The request for a location change must be made in writing and include the license fee which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code.

(e) For any courtesy bench to be located on private property for public use, the county bench license applicant must submit with the application the signed approval from the property owner or a copy of the signed agreement between the applicant and the property owner for the location and public use of the courtesy bench.

(Ord. No. 2181-00, § 4(16-601A.), 11-6-2000)

Sec. 8-662. Hold harmless and indemnity agreement.

The courtesy bench license applicant must enter into a hold harmless and indemnity agreement with the city, in a form acceptable to the city, in which the applicant agrees to hold harmless and indemnify the city from any claims, losses, judgments, damages or costs incurred, including attorney's fees, resulting from the issuance of the courtesy bench license, or arising out or in connection with the licensee's location of the courtesy bench on city property.

(Ord. No. 2181-00, § 4(16-601B.), 11-6-2000)

Sec. 8-663. Insurance.

The courtesy bench license applicant must maintain comprehensive general liability insurance in an amount not less than as shall be set from time to time by the city and a schedule of such

insurance rates are listed in appendix A to this Code, including liability for personal injury, death and property damage, for all courtesy bench locations during the term of the courtesy bench license. The applicant must submit a certificate of insurance that includes the city as an additional insured, and provides that the city must be given 30 days' advance written notice of the cancellation or substantial modification of any insurance described in the certificate of insurance.

(Ord. No. 2181-00, § 4(16-601C.), 11-6-2000)

Sec. 8-664. Location, construction and maintenance.

(a) A courtesy bench shall be located parallel to the nearest curb and no less than three feet behind the face of the curb.

(b) A courtesy bench may be located on a sidewalk, provided there remains a minimum continuous width of five feet, including the top of the curb or unobstructed sidewalk.

(c) A courtesy bench shall be installed and maintained on a durable, level surface, including, but not limited to, concrete, bomanite or decorative brick. Such courtesy bench shall be of sufficient weight or shall be secured in a manner to minimize the potential of accidental tipping or vandalism. No courtesy bench shall be fastened, secured or anchored to any city property, including, but not limited to, city sidewalks, utility poles and sign posts, without the approval of the city.

(d) A courtesy bench shall have a minimum clearance of two feet at both ends of the courtesy bench.

(e) A courtesy bench placed on a boulevard shall have a durable surface provided under and around the courtesy bench with the durable surface extending from the curb to the sidewalk. A courtesy bench placed behind a sidewalk shall have a durable surface under and around the courtesy bench with the durable surface extending to the sidewalk. The durable surface shall extend at least two feet beyond the ends of the courtesy bench when the courtesy bench is located in front of a sidewalk. The durable surface shall extend at least six inches beyond the ends of the courtesy bench when the courtesy bench is not located in front of a sidewalk. A courtesy bench placed at a location where no sidewalk exists shall have a durable surface extending from the edge of the roadway to the courtesy bench, including clearance areas required in this subdivision.

(f) A courtesy bench shall not be located within ten feet from the face of the nearest curb along the nearest street perpendicular to the courtesy bench, and shall not be located within the triangular area of an intersection, as provided under chapter 36 of this Code.

(g) A courtesy bench shall not be located within five feet of a hydrant, driveway, alley or marked crosswalk.

(h) A courtesy bench shall be constructed of durable materials, including, but not limited to, concrete, wood, steel, plastic or a combination thereof, with colors limited to earthtones of subdued greens, grays, browns, reddish-browns and golds.

(i) No courtesy bench shall be more than 44 inches high, 30 inches wide, or more than seven feet long, overall.

(j) A courtesy bench shall be located only at a designated bus stop.

(k) It shall be the duty of the courtesy bench licensee to maintain each courtesy bench, at all times, in a safe condition at its approved location, and to inspect each courtesy bench periodically in order that such courtesy bench may be properly maintained.

(l) The courtesy bench license application shall be denied if the city shall find that the maintenance of the courtesy bench at the proposed location would unduly tend to obstruct passage along any public sidewalk or public way, or to create a hazard, or otherwise to be detrimental to the public safety, convenience or welfare.

(m) If the owner or lessee of any property on which a courtesy bench is located shall, by writing filed with the city on or before December 1 preceding the expiration of a courtesy bench license, withdraw consent to the renewal of such courtesy bench license, after such expiration, the city shall promptly notify the courtesy bench licensee of the filing of such writing, and shall deny the renewal of such license unless and until such owner or person in possession or control of the property on which the courtesy bench is located shall in writing consent to such renewal courtesy bench license being issued.

(Ord. No. 2181-00, § 4(16-601D.), 11-6-2000)

Sec. 8-665. Removal.

(a) The courtesy bench licensee shall remove all courtesy benches authorized under a courtesy bench license, including any durable surface installed under the courtesy bench, and shall restore the affected ground area to the condition it was in prior to installation of the courtesy bench within ten days following revocation of the courtesy bench license. If the licensee fails to remove any courtesy bench as provided in this subsection, the city may, at the licensee's cost, remove all courtesy benches authorized under a courtesy bench license and underlying durable surface, complete any necessary restoration and dispose of the courtesy benches and durable surfaces by any means it deems appropriate after providing ten business days' written notice, by certified mail, to the licensee of the city's intent to remove the courtesy benches. If the licensee fails to pay for the costs incurred by the city in the removal, restoration and disposal process within 15 days after the city's demand for payment addressed to the licensee and sent by certified mail, the city may draw on the surety provided by the licensee to reimburse the city for its costs.

(b) The city may remove any courtesy bench authorized under a courtesy bench license in the manner set forth in subsection (a) of this section when the courtesy bench licensee fails to adequately repair or maintain a courtesy bench, as determined by the city. The city must provide the licensee with ten days' written notice, by certified mail, of the condition of the courtesy bench and the need for appropriate repair or maintenance, and the city's intent to remove the courtesy bench and underlying durable surface.

(Ord. No. 2181-00, § 4(16-601E.), 11-6-2000)

**ARTICLE IV
LOCAL LODGING TAX**

Sec. 8-800. Definitions.

Unless otherwise expressly stated, wherever used in this Article, the following words shall have the meanings given to them by the Section.

Lodging means the furnishing for 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) calendar days or more.

Operator means a person who provides lodging to others, or any office, agent or employee of such person.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-801. Imposition of Tax.

There is hereby imposed a tax of three percent (3%) on the gross receipts from the furnishing for consideration of lodging.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-802. Collection.

Each operator shall collect the tax imposed by this Article at the time rent is paid. The tax collections shall be held in trust by the operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-803. Payment and Returns.

The taxes imposed by this Article shall be paid by the operator to the City not later than twenty-five (25) calendar 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. The return shall contain the following minimum information:

- (1) The total amount of rent collected for lodging during the period covered by the return.
- (2) The amount of tax required to be collected and due for the period.
- (3) The signature of the person filing the return or that of his agent duly authorized in writing.
- (4) The period covered by the return.
- (5) The amount of uncollectible rental charges subject to the lodging tax.

The operator may take a credit against taxes payable the amount of taxes previously paid for rent that was not actually collected.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-804. Examination of Returns, Adjustments, Notices, Demands and Audit.

After a return is filed, the City shall examine it and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness including a formal audit. 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) calendar 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) calendar days after determination of such refund.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-805. Refunds.

Any person may apply to the City for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year after such tax was paid, or within one year from the filing of the return, whichever period is the longer. The City shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the City shall credit the amount of the allowance against any taxes due under this Article from the claimant and the balance of the allowance, if any, shall be paid by the City to the claimant.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-806. Failure to File a Return.

If any operator required by this Article 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) calendar days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the City shall make a return or corrected return, for such person from such knowledge and information as the City 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) calendar days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City 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 in respect thereto. If any portion of a tax imposed by this Article is not paid within thirty (30) calendar days after it is required to be paid, the City Attorney may institute such legal action as may be necessary to recover the amount due plus interest, and costs and disbursements. Upon a showing of good cause, the City may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this Article provided that interest during such period of extension shall be added to the taxes due at the rate of one and one-half percent (1.5%) per month.

(Ord. No. 2396-10, 3-1-2011)

Sec. 8-807. Interest.

The amount of tax not timely paid shall bear interest at the rate of one and one-half percent (1.5%) per month from the time such tax should have been paid until paid. Any interest shall be added to the tax and be collected as part thereof.

(Ord. No. 2396-10, 3-1-11)

Sec. 8-808. Violations.

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

(Ord. No. 2396-10, 3-1-11)

Sec. 8-809. Use of Proceeds.

Ninety five percent (95%) of the proceeds obtained from the collection of taxes pursuant to this Article 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 or tourism bureau for the purpose of marketing and promoting the City as a tourist or convention center.

(Ord. No. 2396-10, 3-1-11)

Sec. 8-810. Appeals.

Any operator aggrieved by any notice, order or determination made by the City under this Article 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 the location of the lodging subject to the order, notice or determination. The petition for review shall be filed with the City Clerk within ten (10) calendar days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review. Upon receipt of the petition the City Manager, or the Manager's designee, shall set a date for a hearing and give the petitioner at least five (5) calendar days' prior written notice of the date, time and place of the hearing. 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. The hearing shall be conducted by the City Manager or the Manager's designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice or determination for which review is sought. The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable sections of this Article and the evidence presented. The person conducting the hearing may affirm, reverse or modify the notice, order or determination made by the City. Any decision rendered by the City Manager pursuant to this subdivision may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City Clerk within ten (10) calendar days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as is practical.

The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse or affirm the decision of the City Manager or his designee upon the same standards as set forth in this subdivision.

(Ord. No. 2396-10, 3-1-11)