

## TITLE VII: BUSINESS REGULATIONS

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## CHAPTER 70: PEDDLERS AND SOLICITORS

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### 70.01. DEFINITIONS.

A) Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### 1) PEDDLER.

- a) A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting.
- b) The term PEDDLER shall mean the same as the term HAWKER.

#### 2) PERSON. Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

#### 3) REGULAR BUSINESS DAY.

- a) Any day during which the City Hall is normally open for the purpose of conducting public business.
- b) Holidays, defined by state law, shall not be counted as REGULAR BUSINESS DAYS.

#### 4) SOLICITOR.

- a) A person who goes from house-to-house, door-to-door, business-to-business, street-to-street or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a

catalog or by other means, and for which delivery or performance shall occur at a later time.

- b) The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term CANVASSER.
- 5) **TRANSIENT MERCHANT.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

#### 70.02. EXCEPTIONS TO DEFINITIONS.

A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR** and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS**, **SOLICITORS** and **TRANSIENT MERCHANTS**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

#### 70.03. LICENSING; EXEMPTIONS.

A) **County license authorized.** No person shall conduct business as a peddler, solicitor or transient merchant within the City limits without first having obtained the appropriate license from the county, if the county licenses peddlers, solicitors or transient merchants, as authorized by M.S. Ch. 329 as it may be amended from time to time.

B) **City license required.** Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City. Solicitors need not be licensed, but are still required to register pursuant to this Chapter.

C) **Application.** Application for a City license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires

to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Administrator/Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information.

- 1) Applicant's full legal name;
- 2) All other names under which the applicant conducts business or to which applicant officially answers;
- 3) A physical description of the applicant, such as hair color, eye color, height, weight, distinguishing marks and features and the like;
- 4) Full address of applicant's permanent residence;
- 5) Telephone number of applicant's permanent residence;
- 6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;
- 7) Full address of applicant's regular place of business, if any;
- 8) Any and all business related telephone numbers of the applicant;
- 9) The type of business for which the applicant is applying for a license;
- 10) Whether the applicant is applying for an annual or daily license;
- 11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City, maximum 14 consecutive days;
- 12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business;
- 13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- 14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;
- 15) Proof of any requested county license;
- 16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- 17) A general description of the items to be sold or services to be provided;
- 18) All additional information deemed necessary by the City Council;

19) The applicant's driver's license number or other acceptable form of identification;  
and

20) The license plate number, registration information and vehicle identification  
number for any vehicle to be used in conjunction with the licensed business and a  
description of the vehicle.

D) Fee. All applications for a license under this chapter shall be accompanied by the fee  
established by the Council.

E) Procedure.

1) Upon receipt of the completed application and payment of the license fee, the City  
Administrator/Clerk-Treasurer, within two regular business days, must determine  
if the application is complete. An application is determined to be complete only if  
all required information is provided.

2) If the City Administrator/Clerk- Treasurer determines that the application is  
incomplete, the City Administrator/Clerk-Treasurer must inform the applicant of  
the required necessary information that is missing. If the application is complete,  
the City Administrator/Clerk-Treasurer must order any investigation, including  
background checks, necessary to verify the information provided with the  
application.

3) Within ten regular business days of receiving a complete application, the City  
Administrator/Clerk-Treasurer must issue the license unless there exist grounds  
for denying the license under this Chapter, in which case the Administrator/  
Clerk-Treasurer must deny the license. If the City Administrator/Clerk-Treasurer  
denies the license, the applicant must be notified in writing of the decision, the  
reason for denial, and of the applicant's right to appeal the denial by requesting,  
within 20 days of receiving notice of rejection, a public hearing before the City  
Council.

4) The City Council shall hear the appeal within 20 days of the date of the request.  
The decision of the City Council following the public hearing can be appealed by  
petitioning the State Court of Appeals for a writ of certiorari.

F) Duration.

1) An annual license granted under this chapter shall be valid for one calendar year  
from the date of issue.

2) All other licenses granted under this chapter shall be valid only during the time  
period indicated on the license.

G) License exemptions.

1) No license shall be required for any person to sell or attempt to sell, or to take or  
attempt to take orders for, any product grown, produced, cultivated or raised on  
any farm.

- 2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
- 3) Professional fund-raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

#### 70.04. LICENSE INELIGIBILITY.

- A) The following shall be grounds for denying a license under this chapter.
  - 1) The failure of the applicant to obtain and show proof of having obtained any required county license;
  - 2) The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;
  - 3) The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner; (Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices and any form of actual or threatened physical harm against another person.)
  - 4) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; and/or
  - 5) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

#### 70.05. LICENSE TRANSFERABILITY.

A) No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

#### 70.06. REGISTRATION.

A) All solicitors, and any person exempt from the licensing requirements of this chapter, shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required.

B) Immediately upon completion of the registration form, the City Administrator/Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

#### 70.07. PROHIBITED ACTIVITIES.

A) No peddler, solicitor or transient merchant shall conduct business in any of the following manners.

- 1) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out or by any other noise, so as to be unreasonably audible within an enclosed structure;
- 2) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way;
- 3) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public;
- 4) Conducting business before 7:00 a.m. or after 9:00 p.m.;
- 5) Failing to provide proof of license or registration, and identification, when requested, or using the license or registration of another person;
- 6) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement; and (No peddler, solicitor or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.)
- 7) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

#### 70.08. EXCLUSION BY PLACARD.

A) No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.



## CHAPTER 71: AMUSEMENTS

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### 71.01. DEFINITIONS.

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

- 1) AMUSEMENT CENTER. Any place wherein any person operates four or more machines for public use upon premises solely within one enclosure. Premises licensed as a liquor establishment may not be an AMUSEMENT CENTER and are not eligible for a license.
- 2) MACHINE. A mechanical amusement device of any of the following types.
  - a) A machine or contrivance, including electric game, pinball machines, mechanical pool tables, foos ball, bowling machines, shuffle boards, electric rifle or gun ranges, miniature mechanical devices and games or amusements patterned after baseball, basketball, hockey and similar games and like devices, machines or games which may be played solely for amusement and not as a gambling device and which devices or games are played by the insertion of a coin or coins or at a fee fixed and charged by the establishment in which the devices or machines are located, and which contain no automatic pay-off devices for the return of coins, merchandise, checks, tokens or any other thing or item of value; provided, however, that the machine may be equipped to permit a free play or game.
  - b) Amusement devices designed for and used exclusively as rides by children, such as, but not limited to kiddie cars, miniature airplane rides, mechanical horses and other miniature mechanical devices not operated as a part of or in connection with any carnival, circus, show or other entertainment or exhibition.

### 71.02. LICENSE REQUIRED.

A) No person shall own, operate or permit operation of a machine and/or an amusement center on premises owned, leased or operated by him or her, or engage in the business of operating an amusement center, in the City unless an amusement center or machine license has been obtained.

B) Nothing in this chapter shall be construed to require licensing of coin-operated music boxes, more commonly known as jukeboxes. Nothing in this chapter shall be held to apply to any machine held or kept for sale or storage and which is not actually in use or displayed for use.

#### 71.03. APPLICATION.

A) The application for the licenses shall contain the following information:

- 1) Name and address of the applicant, age, date and place of birth;
- 2) Prior convictions for violation of law of applicant, if any;
- 3) Place where machine or device is to be displayed or operated and the business conducted at that place;
- 4) If the interest of the applicant be that of a corporation or other business entity, the names of any persons having a 5% or more interest in the business entity shall be listed; and
- 5) For all amusement centers, the applicant shall provide proof of general liability insurance in a form acceptable to the City. The insurance shall provide minimum coverage of \$300,000 per occurrence and \$100,000 per individual and \$50,000 property damage.

#### 71.04. ISSUANCE.

A) A copy of each application for license shall be referred to the designated law enforcement agency. The designated law enforcement agency or its designee shall investigate the location wherein it is proposed to operate the amusement center and shall ascertain if the applicant is of good moral character. On the basis of his or her investigation, the Police Department shall recommend either approval or denial of the license. The completed application, together with the Police Department's report and recommendation, shall be presented to the Council which shall, in its discretion, grant or refuse the license.

#### 71.05. TERM AND FEE.

A) Licenses for amusement centers and machines shall cover an annual period from July 1 to June 30. The license fee shall be established pursuant hereto. The initial license fee for each applicant shall be prorated as of the date of the application.

#### 71.06. DISPLAY OF LICENSE.

A) The license shall be posted permanently and conspicuously at the location the machine in the premises wherein the device is to be operated or maintained to be operated.

#### 71.07. LOCATION OF MACHINES.

A) No machine shall be located, placed, maintained or operated on any public street, avenue, boulevard, lane, alley or other public ground within the City. No machine shall be so located that its operation will create a nuisance.

#### 71.08. GAMBLING RESTRICTIONS.

A) No machine shall be so constructed, maintained or operated as to a capable of taking more than one coin, token or plug per player for any one game.

B) It shall be unlawful for the owner of any machine; or for the owner or operator of any establishment where it is located, to permit the same to be used for gambling or for the making of bets or wagers.

C) It shall be unlawful for the licensee or for the owner or operator of the establishment where the machine is located to give any money, token, merchandise or any other thing of value or any reward or prize in lieu of free games registered on the machine, and all free games so registered shall be played on the machine registering the free games, and there shall be no device on the machine whereby the operator can cancel registered free games.

D) No person shall keep, maintain, sell or permit to be operated in his or her place of business any machine which has been converted into an automatic pay-off device which shall automatically award money, prizes, tokens, merchandise, gifts or anything of value, other than free games to the operator or player of the machine. No person shall convert any machine into an automatic pay-off device.

E) Any machine which shall have been made use of in violation of this Section may be seized and destroyed in compliance with the provisions of the statutes of the state relating to gambling devices.

#### 71.09. AMUSEMENT CENTER RESTRICTIONS.

A) Days and Hours.

- 1) Amusement centers shall be closed at 10:00 p.m. on Sunday through Thursday and at 12:00 a.m. on Friday and Saturday evenings.
- 2) Amusement centers shall not open until 9:00 a.m. on weekdays or until 12:00 p.m. on Sundays.

B) No amusement center nor any coin-operated amusement device or coin-operated musical device therein shall be operated so as to constitute a public nuisance.

C) It shall be the responsibility of the licensee to maintain order on the licensed premises at all times.

D) Overcrowding.

- 1) It shall be the responsibility of the licensee to see that the license premises do not become overcrowded so as to constitute a hazard to the health or safety of persons therein.
- 2) The Fire Chief may designate the maximum number of persons to be permitted on the licensed premises.

E) The licensee shall provide reasonable adult supervision, with a minimum of one, taking into consideration the number of machines and patrons, and the number, nature, type and proximity of other businesses in the premises or in the vicinity.

F) It shall be unlawful for any person engaged in the business of operating an amusement center to sell, offer for sale or knowingly permit to be sold or offered for sale or to be dispensed or consumed or knowingly brought on the licensed premises any alcoholic beverages, controlled substances or to knowingly allow any illegal activity upon the licensed premises.

G) No food or beverages shall be sold or dispensed upon the licensed premises without special approval by the Council.

H) The licensee of an amusement center shall not permit intoxicated persons to remain on the premises.

## CHAPTER 72: JUNK YARDS AND BUSINESSES

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### 72.01. DEFINITIONS.

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

- 1) JUNK. Any old, used or second hand materials of any kind, including, but not limited to cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metals, furniture, unlicensed, used and inoperative boats and motor vehicles or parts thereof, used and inoperative agricultural and construction equipment, or parts thereof, building materials or any other article which from its worn condition renders it useless for the purpose for which it was made and which is commonly classed and referred to as JUNK.
- 2) JUNK BUSINESS. The keeping, conducting or maintaining of any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or the buying and selling at retail or wholesale or dealing in any junk.
- 3) JUNK DEALER. Any person engaged in the junk business.
- 4) JUNK YARD. Any building, structure, yard or place in or upon which is kept, stored or piled in commercial quantities, whether temporarily, irregularly or continually any junk.
- 5) PERSON. Natural persons, corporations, partnerships and unincorporated associations.

### 72.02. LICENSE REQUIRED.

A) No junk dealer shall henceforth engage in the junk business within the City limits, without first obtaining a license pursuant to this chapter.

### 72.03. APPLICATION.

A) Every applicant for a license to engage in the junk business shall file with the City Administrator/ Clerk-Treasurer a written application to be supplied by the City, signed by the applicant and accompanied by a license fee established pursuant hereto.

B) The application shall state:

- 1) The natives and residences of the applicants or its or their principal offices and their residences if the applicant is an association or corporation;
- 2) The detailed nature of the business to be conducted and the kind of materials to be collected, stored, bought, sold or otherwise handled; and
- 3) The premises where the business or activity is to be located or carried on.

#### 72.04. INSPECTION.

A) The City Administrator/Clerk-Treasurer shall report the application to the Fire Chief and Building Inspector, who shall inspect or cause to be inspected the premises to determine whether they are appropriate for carrying on the junk business in terms of whether there is or will be compliance with all laws and ordinances and whether a fire, health or safety hazard would be created by the activity. The City officers shall report their findings to the City Council at its next regular meeting.

#### 72.05. TERM OF LICENSE.

A) The City Council shall act upon all applications and its discretion shall grant a license to conduct the junk business for a period not to exceed one year. After expiration of one year, the applicant must resubmit a new application pursuant to this chapter.

#### 72.06. PREMISES REQUIREMENTS.

A) The following general operating requirements shall apply to all junk dealers license in accordance with this chapter.

- 1) The license issued pursuant hereto shall be plainly displayed on the business premises.
- 2) The premises on which the junk business is carried on shall, at all times, be maintained in a sanitary condition.
- 3) No land or space, not covered by the license, shall be used in the licensed business.
- 4) No water shall be allowed to stand in any place on the premises in a manner as to afford a breeding place for mosquitoes.
- 5) Weeds and vegetation on the premises, other than trees and shrubs, shall be kept at a height of not more than four inches.
- 6) No garbage or waste liable to give off a foul odor or attract vermin shall be kept on the premises.
- 7) No junk shall be allowed to rest upon or protrude over any public street, sidewalk or become scattered or blown off the business premises.

- 8) There shall be maintained a so-called buffer zone of not less than ten feet between any public street or right-of-way bordering the licensed premises and the area on the licensed premises wherein the licensee keeps, stores or piles the junk or articles for sale, within which buffer zone no junk shall be kept, stored or piled. The buffer zone shall be landscaped with the planting of appropriate grass and/or sod and trees and shrubbery which shall be maintained and kept by the licensee in a presentable appearance.
- 9) Junk shall be stored in piles not exceeding seven feet in height, and shall be arranged in a neat and tidy manner with accessways between rows sufficient to allow easy firefighting access to all areas of the premises wherein junk is kept, stored or piled.
- 10) No combustible material of any kind not necessary or beneficial to the licensed premises shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
- 11) All gasoline and oil shall be removed from any inoperative engines or motor vehicles on the premises.
- 12) No junk or material shall be burned on the premises.
- 13) No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed premises on Sunday, Christmas, Easter, Thanksgiving or at anytime between the hours of 6:00 p.m. and 7:00 a.m.
- 14) The area on the premises where junk is kept, stored, piled other than indoors shall be enclosed, except for entrances and exits, with a solid vertical wall or fence of a minimum height of seven feet measured from ground level. There shall be not more than one entrance and exit of a width of not more than ten feet on any one side of the licensed premises. All entrances and exits shall have a closeable solid gate of a height not less than that of the fence itself.
- 15) The licensee shall permit inspection of the premises by any employee or agent of the City at any reasonable time.
- 16) No junk dealer licensed hereunder or his or her agent or employee shall purchase or receive any junk for use in the licensed business from any person under the age of 18 years without the written consent of a parent or guardian of the person.
- 17) No licensee shall allow the licensed premises to become a nuisance; nor shall any junk business be operated in a manner as to become injurious to the health, safety or welfare of the community or of any residents close by.

## CHAPTER 73: LAWFUL GAMBLING

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### 73.01. INTENT AND PURPOSE.

#### A) Authority and Fee.

- 1) M.S. Ch. 349, as it may be amended from time to time, provides that the State Gambling Control Board is authorized to license certain organizations, as defined by the law to conduct lawful gambling within the City.
- 2) M.S. § 349.213, as it may be amended from time to time, empowers the City to require a permit for organizations conducting lawful gambling which are exempt from licensing, pursuant to M.S. § 349.166, as it may be amended from time to time, and to charge a fee for the permit.
- 3) The requirement for a permit is hereby instituted within the City and a permit fee of \$100 is hereby established.

#### B) Authority; Intent and Purpose.

- 1) M.S. Ch. 349, as it may be amended from time to time, allows the City to adopt more stringent regulations of any form of lawful gambling within its jurisdiction.
- 2) The intent and purpose of this chapter is to limit the organizations that are eligible to receive a lawful gambling license from the State Gambling Control Board.
- 3) Lawful gambling can be a nuisance-prone activity; it is more easily controlled by restricting the licenses to local organizations, or, in the alternative, if an organization, other than a local organization, is going to conduct lawful gambling, then it is reasonable and fair that at least a portion of the profits be used for lawful purposes within the City since the source of a majority of collected funds will be from residents of the City.

### 73.02. DEFINITIONS.

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



- 1) ORGANIZATION, LAWFUL GAMBLING and LAWFUL PURPOSES and PROFITS.
  - a) The same meanings as defined in M.S. Ch. 349, as it may be amended from time to time.
  - b) Further, any term that is defined in M.S. Ch. 349, as it may be amended from time to time, and that is also used in this chapter shall for the purpose of this chapter have the same meaning as defined by the statutes.

### 73.03. ELIGIBLE ORGANIZATION.

A) An organization shall not be eligible to receive a lawful gambling license from the Minnesota Charitable Gambling Control Board unless the organization meets all of the requirements imposed by state law and unless the organization meets at least one of the following four conditions unless otherwise specified:

- 1) The organization has at least 15 members that are residents of the City; or
- 2) The physical site for the organization's headquarters or the registered business office of the organization is located within the City and has been located within the City for at least two years immediately preceding application for a license; or
- 3) The organization owns real property within the City and the lawful gambling is conducted on the property owned by the organization within the City; or
- 4) The physical site where the organization regularly holds its meetings and conducts its activities, other than lawful gambling and fund raising, is within the City and has been located within the City for at least two years immediately preceding application for a license.

B) If an organization meets all of the requirements imposed by state law but does not meet at least one of the conditions set forth above then the organization may, nevertheless, be eligible to receive a lawful gambling license from the Minnesota Charitable Gambling Control Board but only for the sole and limited purpose of conducting lawful gambling at one lawful gambling occasion per license year. The occasion shall not be longer than 72 continuous hours.

C) In addition, if an organization meets all of the requirements imposed by state law but does not meet at least one of the conditions set forth above then the organization may, nevertheless be eligible to receive, at the discretion of the City Council, a lawful gambling license from the Minnesota Charitable Gambling Control Board if:

- 1) The new organization is seeking a lawful gambling license to replace the operations of an organization that received a previously issued lawful gambling license under this chapter, and the organization has permanently ceased its charitable gambling operation; and
- 2) There are no organizations that meet all of the requirements imposed by state law and meet at least one of the four conditions set forth above, willing to apply for a

lawful gambling license to replace the operations of the organization which was previously issued a lawful gambling license under this chapter and has permanently ceased its charitable gambling operation.

D) Any organization which purports to meet one of the conditions set forth above shall certify, in writing, on its application which condition or conditions are being met.

E) In addition to the above, all organizations shall not be eligible to receive a lawful gambling license until they certify which of the four condition(s) are being met. Further, all organizations receiving the licenses shall comply with the following guidelines for spending gambling profits.

- 1) Twenty percent of the profits may be spent for lawful purposes and authorized expenses.
- 2) Eighty percent of the profits must be spent within the designated trade area.
- 3) Fifty percent of the profits must be spent within the corporate limits of the City.

F) Additional Requirements.

- 1) The designated trade area for purposes of this chapter is immediately adjacent cities and townships.
- 2) The expenditures shall be made within the designated areas prescribed above within six months after a lawful gambling event, and the organization shall certify in writing to the Board and City that the required percentages of profit have been expended and the manner in which it has been expended.
- 3) Each organization receiving a lawful gambling license must supply the City with a yearly audit of gambling by July 1 of each year.

#### 73.04. APPLICABILITY.

A) This chapter shall apply to and govern all original and renewal licenses for which application is made after the effective date of this chapter.

#### 73.05. DISAPPROVAL.

A) Nothing contained in this chapter shall be deemed to limit the City Council's authority to disapprove a license for lawful gambling.

#### 73.06. GAMBLING CONTROL BOARD; FILING.

A) This chapter shall be filed with the State Charitable Gambling Control Board.

#### 73.07. BACKGROUND INFORMATION.

A) A copy of all applications and reports required by and submitted to the State Charitable Gambling Control Board shall also be submitted to the City within seven days after they are submitted to the Board.

## CHAPTER 74: ADULT BUSINESSES

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### 74.01. FINDINGS AND PURPOSE.

A) Studies conducted by the State Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington, have studied the impacts that adult establishments have in those communities.

B) These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods.

C) These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks.

D) Based on these studies and findings, the City Council concludes:

- 1) Adult establishments have adverse secondary impacts of the types set forth above;
- 2) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by geographic, licensing and health requirements;
- 3) It is not the intent of the City council to prohibit adult establishments from having a reasonable opportunity to locate in the City;
- 4) M.S. § 462.357, as it may be amended from time to time, allows the City to adopt regulations to promote the public health, safety, morals and general welfare; and
- 5) The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.

### 74.02. DEFINITIONS.

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

1) ADULT ESTABLISHMENT.

- a) Any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business;
- b) Any business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, discussing or relating to specified sexual activities or specified anatomical areas; or
- c) Any business that engages in any adult use as defined herein.

2) ADULT USE. Any of the following activities or businesses.

- a) **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
- b) **ADULT BOOKSTORE.** An establishment or business used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film, if:
  - i The business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; or
  - ii Twenty-five percent or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) is devoted to items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.
- c) **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:
  - i The depiction of specified sexual activities or specified anatomical areas; or
  - ii The presentation, display or depiction of matter that seeks to evoke, arouse or excite sexual or erotic feelings or desire.
- d) **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that excludes minors by reason of age, and that provides the

service of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

- e) **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that excludes minors by reason of age, and that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- f) **ADULT HEALTH/SPORT CLUB.** A health/sport club that excludes minors by reason of age, and that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- g) **ADULT HOTEL OR MOTEL.** A hotel or motel that excludes minors by reason of age, and that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- h) **ADULT MASSAGE PARLOR/ HEALTH CLUB.** A massage parlor or health club that excludes minors by reason of age, and that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- i) **ADULT MINI-MOTION PICTURE THEATER.** A business or establishment with a capacity of less than 50 persons that presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- j) **ADULT MODELING STUDIO.** A business or establishment that provides figure models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.
- k) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- l) **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice excludes minors by reason of age or that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

- m) **ADULT NOVELTY BUSINESS.** An establishment or business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to items, merchandise or if the business not open to the public, to items, merchandise or devices that either simulate specified sexual activities or specified anatomical areas or are designed for sexual stimulation.
  - n) **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heath bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
  - o) **ADULT STEAM ROOM/ BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/ bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- 3) **NUDE or SPECIFIED ANATOMICAL AREAS.**
- a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses or female breasts below a point immediately above the top of the areola; and
  - b) Human male genitals in a discernable turgid state, even if completely and opaquely covered.
- 4) **SPECIFIED SEXUAL ACTIVITIES.**
- a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, the use of excretory functions in the context of a sexual relationship, anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio; necrophilia, pederasty, pedophilia, piquerism, sapphism or zooerastia;
  - b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
  - c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
  - d) Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;

- e) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraints of any person;
- f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- g) Human excretion, urination, menstruation or vaginal or anal irrigation.

#### 74.03. LOCATION.

A) An adult establishment may not be located within 600 feet of any residentially-zoned property boundary or any church site, school site, day-care facility or park. An adult establishment may not be located within 1,000 feet of another adult establishment. For the purposes of this section, this distance is a horizontal measurement from the main public entrance of the adult establishment to the nearest point of a residentially-zoned property boundary, the property line of a church site, school site, day-care facility or park and the main public entrance of another adult establishment.

#### 74.04. HOURS OF OPERATION.

A) An adult establishment may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

#### 74.05. ADULT CABARETS; ADDITIONAL PROVISIONS.

A) The following additional conditions apply to adult cabarets.

- 1) An owner, operator or manager of an adult cabaret may not allow any dancer or other live entertainer to display specified anatomical areas or to display or perform specified sexual activities on the premises of the adult cabaret.
- 2) A dancer, live entertainer, performer, patron or any other person may not display specified anatomical areas in an adult cabaret.
- 3) The owner, operator or manager of an adult cabaret must provide the following information to the City concerning any person who dances or performs live entertainment at the adult cabaret: the person's name, home address, home telephone number, date of birth and any aliases.

#### 74.06. LICENSE REQUIRED.

A) A person may not own or operate an adult establishment without having first secured a license as provided for in this section. Notwithstanding any other provision of this code to the contrary, the procedures set forth in this section establish the exclusive method for obtaining an adult establishment license.

B) The application for an adult establishment license must be submitted on a form provided by the City and must include:

- 1) If the applicant is an individual, the name, residence, phone number and birth date of the applicant; if the applicant is a partnership, the name, residence, phone number and birth date of each general and limited partner; if the applicant is a corporation, the names, residences, phone numbers and birth dates of all persons holding more than 5% of the issued and outstanding stock of the corporation;
- 2) The name, address, phone number and birth date of the operator and manager of the adult establishment, if different from the owner's;
- 3) The address and legal description of the premises where the adult establishment is to be located;
- 4) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager, and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community; (In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community.)
- 5) The activities and types of business to be conducted;
- 6) The hours of operation;
- 7) The provisions made to restrict access by minors; and
- 8) A building plan of the premises detailing all internal operations and activities.

C) The license fee provisions for adult use establishments are as follows.

- 1) The annual license fee is set by Council resolution.
- 2) An application for a license must be submitted to the City Administrator/Clerk-Treasurer and accompanied by payment of the required license fee. Upon rejection of an application for a license, the City will refund the license fee.
- 3) Licenses will expire on December 31 of each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.
- 4) No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the City Council within 30 days from the happening of one of the following



events, provided that the event occurs more than 30 days before the expiration of the license:

- a) Destruction or damage of the licensed premises by fire or other catastrophe;
  - b) The licensee's illness, if the illness renders the licensee unable to continue operating the licensed adult establishment;
  - c) The licensee's death; or
  - d) A change in the legal status making it unlawful for the licensed business to continue.
- 5) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City Council by the applicant or licensee. If a change takes place during the investigation, it must be reported to the Police Chief or the City Administrator/Clerk-Treasurer in writing and they will report it to the City Council. A failure by an applicant or licensee to report a change may result in a denial or revocation of a license.

D) The investigative fee for an adult establishment license is established by Council resolution.

E) The procedures for granting an adult establishment license are as follows.

- 1) The Chief of Police will conduct and complete an investigation within 30 days after the City Administrator/Clerk-Treasurer receives a complete application and all license and investigative fees.
- 2) If the application is for a renewal, the applicant will be allowed to continue business until the City Council has determined whether to renew or refuse to renew a license.
- 3) If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, then the license will be issued by the City Council within 30 days after the investigation is completed. If the City Council fails to act within 30 days after the investigation is completed, the application will be deemed approved.
- 4) Non Transferable; Annual.
  - a) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application.

- b) A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than 5% of the issued and outstanding stock of the corporation will be deemed a transfer of the license.
  - c) Adult establishments existing at the time of the adoption of this section must obtain an annual license.
- F) A license will not be granted to or held by a person who:
- 1) Is under 18 years of age;
  - 2) Who is overdue or whose spouse is overdue in payments to the City, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
  - 3) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses or adult establishments;
  - 4) Who is not the proprietor of the establishment for which the license is issued;
  - 5) Who is residing with a person who has been denied a license by the City or any other state municipal corporation to operate an adult establishment or residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding 12 months; or
  - 6) Who has not paid the license and investigative fees required by this section.
- G) An adult establishment license will not be granted for:
- 1) Any adult establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this chapter or where a license hereunder has been revoked for cause, until one year has elapsed after the conviction or revocation; or
  - 2) Any adult establishment that is not in full compliance with the City code and all provisions of state and federal law.
- H) A license is subject to the provisions of this chapter and of any applicable sections of the City code and all provisions of state and federal law.
- I) Licensed premises must have the license posted in a conspicuous place at all times.
- J) A minor may not be permitted on the licensed premises.
- K) Any designated inspection officer of the City has the right to enter, inspect and search the premises of a licensee during business hours.

L) The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.

M) Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

N) Records.

- 1) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction.
- 2) At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price and a detailed description of the item or merchandise that is being purchased or rented.
- 3) These written records must be provided to the City upon request.

#### 74.07. HIGH RISK SEXUAL CONDUCT

A) Findings and Purpose; The City Council makes the following findings regarding the need to regulate commercial premises, buildings and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health.

- 1) The experience of other cities establishes that certain commercial premises, buildings and structures, or parts thereof, by reason of design and use of the premises, buildings or structures are conducive to the spread of communicable disease of danger to persons frequenting the premises, buildings or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating the commercial premises, buildings and structures.
- 2) The experience of other cities where the premises, buildings and structures are present indicates that the risk of spreading the sexually transmittable disease of Acquired Immune Deficiency Syndrome (AIDS) is increased by the presence of the premises, buildings and structures, because the design or use of the premises, buildings and structures, or parts thereof can facilitate high-risk sexual conduct.
- 3) AIDS
  - a) Medical publications of the Center for Disease Control of the United States Department of Health and Human Services indicate that the sexually transmittable disease of AIDS is currently irreversible and uniformly fatal.
  - b) Medical research has further established that the risk factors for obtaining or spreading AIDS are associated with high risk sexual conduct.

- 4) Certain commercial premises, buildings and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings and structures.
- 5) The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing commercial premises, buildings and structures conducive to high-risk sexual conduct.
- 6) The purpose of these regulations is to prescribe regulations governing commercial premises, buildings, and structures that are conducive, by virtue of design and use, to high-risk sexual conduct which can result in the spread of sexually transmitted diseases to persons frequenting the premises, buildings and structures.

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

- 1) **BOOTHS, STALLS OR PARTITIONED PORTIONS OF A ROOM OR INDIVIDUAL ROOM.** Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct, or enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that are private offices used by the owners, managers or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.
- 2) **DOORS, CURTAINS or PORTAL PARTITIONS.** Full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.
- 3) **HAZARDOUS SITE.** Any commercial premises, building or structure, or any part thereof, which is a site of high-risk sexual conduct as defined herein.
- 4) **HIGH-RISK SEXUAL CONDUCT.** Fellatio, anal intercourse and vaginal intercourse with persons who engage in sexual acts in exchange for money.
- 5) **OPEN TO AN ADJACENT PUBLIC ROOM SO THAT THE AREA INSIDE IS VISIBLE TO PERSONS IN THE ADJACENT PUBLIC ROOM.** The absence of any entire door, curtain or portal partition or a door or other device which is made of clear, transparent material such as glass, plexiglass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.
- 6) **PUBLIC HEALTH OFFICIAL.** An agent or employee of the City, county or state charged with the enforcement of the state or local health laws.

C) Public Health Regulations.

- 1) A commercial building, structure, premises or part thereof or facilities therein may not be constructed, used, designed or operated in the City for the purpose of engaging in, or permitting persons to engage in sexual activities which include high-risk sexual conduct.
- 2) It is unlawful to own, operate, manage, rent, lease or exercise control of a commercial building, structure, premises or portion or part thereof in the City, that contains:
  - a) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity, including but not limited to vaginal intercourse, anal intercourse or fellatio, between persons on either side of the partition; or
  - b) Booths, stalls or partitioned portions of a room or individual room, as defined herein, which have doors, curtains or portal partitions, as defined herein, unless the booths, stalls or partitioned portions of a room or individual room have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but the lighting need not be of the intensity as to prevent the viewing of the motion pictures or other offered entertainment.

D) Exceptions. The regulations set forth in this section do not apply to premises, buildings or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes or boarding houses which are subject to other general health and sanitation requirements under state and local law.

E) Health Enforcement Powers

- 1) In exercising powers conferred by this or any other section of this code relating to communicable diseases, the Public Health Official is to be guided by the most recent instructions, opinions and guidelines of the Center for Disease Control of the United States Department of Health and Human Services that relate to the spread of infectious diseases.
- 2) In order to ascertain the source of infection and reduce its spread, the Public Health Official, and persons under the Public Health Official's direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, that may be a site of high-risk sexual conduct.

- 3) If the Public Health Official determines that a hazardous site as defined herein exists, the Public Health Official will declare it to be a public health hazard and public health nuisance and will:
- a) Notify the manager, owner or tenant of the hazardous site that the Public Health Official has reasonable belief that the premises, building or structure is a hazardous site, as defined herein;
  - b) Issue two written warnings at least ten days apart to the manager, owner or tenant of the premises stating the specific reasons for the Public Health Official's opinion that the premises, building or structure is a hazardous site, as defined herein;
    - i Once the notices and warnings have been issued, the Public Health Official must proceed as follows:
    - ii After the manager, owner or tenant of the premises has been notified in writing as to the basis of the Public Health Official's determination, the manager, owner or tenant will have ten days from the date of the last warning to request a hearing before the Public Health Official or the Public Health Official's appointee for the determination as to the existence of the hazardous site. If the manager, owner or tenant of the premises does not request a hearing within ten days of the date of the last warning notice, the Public Health Official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the Public Health Official will cause the orders to be issued to the manager, owner or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent high-risk sexual conduct from taking place within the premises.
    - iii If the manager, owner or tenant of the premises requests a hearing, the hearing will be held before the Public Health Official or the Public Health Official's appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the Public Health Official or the Public Health Official's appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein, and issue a decision based upon all hearing evidence presented. If the Public Health Official or the Public Health Official's appointee makes a determination that the premises constitute a hazardous site, the Public Health Official will then issue orders to the manager, owner or tenant of the premises to take corrective measures to prevent high-risk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.

- c) If, within 30 days after issuance of the orders to the manager, owner, or tenant of the hazardous site, the Public Health Official determines that such corrective measures have not been undertaken, the Public Health Official may order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction or may secure a court order for the closure of the premises, constituting the hazardous site until the premises, building or structure is in compliance with all provisions of this code.

## CHAPTER 75: PAWN SHOPS, PAWNBROKERS AND THE LIKE

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### 75.01. DEFINITIONS.

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

- 1) **PAWNBROKER.** A person who loans money on deposit or pledge or personal property or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property, or any part thereof so mortgaged.
- 2) **SECONDHAND GOODS DEALER.** A person whose regular business includes selling or receiving tangible personal property, excluding motor vehicles, previously used, rented, owned or leased.

### 75.02. EXEMPTIONS.

A) This chapter does not apply to or include the following.

- 1) The sale of secondhand goods where all of the following conditions are present:
  - a) The sale is held on property occupied as a dwelling by the seller, or owned, rented or leased by a charitable or political organization;



- b) The items offered for sale are owned by the occupant;
  - c) The sale does not exceed a period of three days;
  - d) Not more than four sales are held either by the same person or the same property in any 12-month period; and
  - e) None of the items offered for sale have been purchased for resale or received on consignment for purpose of resale.
- 2) Sales of motor vehicles;
  - 3) The sale of secondhand books, magazines, video recordings or furniture;
  - 4) The sale of goods at an auction held by a licensed auctioneer;
  - 5) The business of buying or selling only those secondhand goods taken as part or full payment of new goods, and where the business is incidental to and not the primary business of a person;
  - 6) A bulk sale of property from a merchant, manufacturer or wholesaler having an established place of business or of goods sold at open sale from bankrupt stock;
  - 7) Goods sold only at a public market;
  - 8) Goods sold at an exhibition;
  - 9) The sale of secondhand goods by a secondhand goods dealer on property where no pawnbroker license is in effect;
  - 10) Sale of secondhand clothes, except furs; and
  - 11) Sale of secondhand washers, dryers, air conditioners, refrigerators, trash compactors, dishwashers or kitchen ranges.

#### 75.03. LICENSE REQUIRED; FEE AND APPLICATION.

##### A) License.

- 1) Except as herein otherwise provided, it is unlawful for any person to engage in the business of second hand goods dealer without first obtaining a secondhand goods dealer license from the City.
- 2) It is unlawful for any person to conduct, operate or engage in the business of pawnbroker without first having obtained a license from the City.
- 3) A pawnbroker may not conduct, operate or engage in the business of secondhand goods dealer without having obtained a secondhand goods dealer license in addition to a pawnbroker license. A secondhand goods dealer license in addition to a pawnbroker license. A secondhand goods dealer may not conduct, operate or

engage in the business of pawnbroker without having obtained a pawnbroker license in addition to a secondhand goods dealer license.

B) Multiple Dealers.

- 1) The owner of a business at which two or more secondhand goods dealers are engaged in business by maintaining separate sales space and identifying themselves to the public as individual dealers may obtain a multiple license provided the following requirements are met:
  - a) The businesses must have a single name and address;
  - b) The businesses must operate in a compact and contiguous space;
  - c) The businesses must be under the unified control and supervision of the one person who hold the license; and
  - d) Sales must be consummated at a central point or register operated by the owner of the business and the owner must maintain a comprehensive account of all sales.
- 2) The holder of a secondhand goods dealer license under this section for a business with more than one dealer at the same location must comply with all of the requirements of this section, including the responsibility for police reporting and record-keeping in the same manner as any other dealer licensed under this section. A dealer licensed under this section is responsible to its customers for stolen or misrepresented goods sold at its place of business in the same manner as any other dealer under this section.

C) Fee.

- 1) The annual license fee for a secondhand goods dealer shall be established by the City Council.
- 2) The annual license fee for a pawnbroker shall be established by the City Council. The fee shall be the same if the license is only issued for part of a year.

D) Application.

- 1) If the applicant is a natural person, the application must be signed and sworn to by the person; if a corporation, by an officer authorized to sign; if a partnership, by all general partners.
- 2) The application must be accompanied by the required license fee. The fee will be returned to the applicant if the application is rejected.
- 3) It is unlawful to knowingly make a false statement in the license application. In addition to other penalties, the license may be subsequently revoked by the Council for a violation of this section.

E) Secondhand goods dealer and pawnbrokers dealing in precious metals and gems must be licensed by the county, as required by M.S. § 325F.73, as it may be amended from time to time.

#### 75.04. BOND.

A) Before a license shall be granted to any person as a pawnbroker, he or she shall execute and deposit with the City a corporate surety bond in the sum of \$2,000 on which the City is obligee, conditioned that the applicant will observe the conditions and provisions of this section and obey all laws governing the licensed business, and pay all fees, taxes, penalties and other charges associated with the business.

#### 75.05. SITE PLAN.

A) The application for a pawnbroker or secondhand goods dealer license must be accompanied by a site plan drawn to scale.

B) The site plan must contain:

- 1) A legal description of the property upon which the proposed licensed premises is situated;
- 2) A plot plan;
- 3) The exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property and entrance into the premises;
- 4) The location of and distance from the nearest church, school, hospital and residence; and
- 5) A floor plan of the licensed premises.

#### 75.06. INVESTIGATIONS.

A) The City, prior to the granting of an initial or renewed pawnbroker or secondhand goods dealer license, must conduct a preliminary background and financial investigation of the applicant. Any person having a beneficial interest in the license must be investigated. The investigation shall be conducted by the County Sheriff's Department or designated agent to the Council and the results reported to the Council. The investigation shall seek verification of the facts stated in the application, and must report all convicted violations of state law, federal law or City code provisions involving the applicant, interested persons, or the licensed premises while under that applicant's proprietorship.

B) The fee charged by the City to an applicant for the costs of investigation shall be established by the City Council. The investigation fee must accompany the application form when submitted to the City by the applicant.

#### 75.07. PUBLIC HEARING.

##### A) Hearing.

- 1) A pawnbroker or secondhand goods dealer license will not be issued or renewed without a public hearing.
- 2) Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing.

B) The public hearing must be preceded by at least ten-days' published notice specifying the location of the proposed licensed business premises and the purpose of the hearing.

#### 75.08. GRANTING OF LICENSE.

A) After review of the license application, investigation report and public hearing, the Council may grant or refuse the application for a new or renewed pawnbroker or secondhand goods dealer license. A license will not be effective unless the fees have been paid and the bond has been filed with the City Administrator/Clerk-Treasurer's Office.

#### 75.09. INELIGIBILITY FOR LICENSE.

##### A) A pawnbroker or secondhand goods dealer license will not be issued to:

- 1) A person not a citizen of the United States or a legal resident alien;
- 2) A person under 18 years of age;
- 3) Subject to the provisions of law, a person who within five years of license application date has been convicted of receiving stolen property, sale of stolen property or controlled substance, burglary, robbery or any law or City code provision regulating the business of pawnbroker or secondhand goods dealer;
- 4) A person who within five years of the license application date had a pawnbroker or secondhand goods dealer license revoked.
- 5) When the Council determines, after investigation and public hearing, that issuance or renewal of the license would adversely affect the public health, safety or welfare.

B) Partnerships, whose partners include any of the above ineligible persons, or corporations whose officers or board members include any of the above ineligible persons shall not be eligible for a pawnbroker or secondhand goods dealers license.

C) A license will not be issued or renewed under this section for any place or for any business:

- 1) If taxes, assessments or other financial claims of the City or the state on the licensee's business premises are delinquent and unpaid;
- 2) If the premises is located within 300 feet of a school or church;

- 3) Where operation of a licensed premises would violate the zoning provisions of the City code; or
- 4) Where the applicant's present license was issued conditioned upon the applicant making specified improvements to the licensed premises or the property of the licensed premises which improvements have not been completed.

#### 75.10. CONDITIONAL LICENSES.

A) The Council may grant an application for a new or renewed pawnbroker or secondhand goods dealer license conditioned upon the applicant making reasonable improvements to the proposed business premises or the property upon which the business premises is situated.

B) The improvements shall be required by City zoning or building code requirements, or other improvements related to the health, safety, welfare or police power functions.

C) The Council, in granting a conditional license, will specify when the modifications must be completed.

D) Failure to comply with the conditions of the license is grounds for the Council to revoke or refuse to renew the license.

#### 75.11. LICENSE LIMITATIONS.

A) A license will be issued to the applicant only, and only for the business premises as described in the application.

B) The license is effective only for the premises specified in the approved license application and may not be transferred to any other person, partnership, corporation or premises.

#### 75.12. TERM; EXPIRATION.

A) Initial licenses will be effective on the date of issue and expire on December 31 at midnight of the year of issue. Renewals shall be for one-year periods commencing on January 1 with expiration on December 31 at midnight.

#### 75.13. DEATH OF LICENSEE.

A) In the case of death of a licensee, the personal representative of the licensee may continue operation of the business for not more than 90 days after the licensee's death or until the existing license expires, whichever occurs first.

#### 75.14. RECORDS; WEEKLY REPORTS.

A) A licensed secondhand goods dealer and pawnbroker, at the time of receipt of an item, must immediately record, in ink or other indelible medium in a book or word processing unit, the following information.

- 1) An accurate description of the item including, but not limited to any trademark, identification number, serial number, model number, brand name or other identifying mark on the item;
- 2) The purchase price;
- 3) Dated receipt;
- 4) Name, address and date of birth of the person from whom the item was received;
- 5) Identification Number.
  - a) The identification number from any one of the following forms of identification of the seller:
    - i Valid picture drivers license;
    - ii State or federal issued picture identification card.
  - b) The form of identification used must be specified in the records. Transactions are not permitted with sellers unable to provide the required identification.
- 6) The books as well as the goods received must be open for inspection by the appropriate law enforcement agency at reasonable times. Records required by this section must be stored and maintained by the licensee for a period of at least three years.

B) For all items, regardless of resale price, a secondhand goods dealer or pawnbroker shall make out, on forms approved by the County Sheriff, and send weekly by mail to the County Sheriff's Department, a legible description of the goods received during the preceding week and the price paid, together with the time received and a description of the person from whom the goods were received.

#### 75.15. STOLEN GOODS.

A) A licensed pawnbroker or secondhand goods dealer must report immediately to the Police Department any article pledged or received, or sought to be pledged or received, if the licensee has reason to believe that the article was stolen or lost.

#### 75.16. HOLDING PERIODS.

A) No holding period shall be required for purchases made by the license holder if a receipt showing the name, address and phone number of the seller is on file, however pawned items must be held a minimum of 72 hours after the items are received on deposit, excluding Sundays and legal holidays.

#### 75.17. RECEIPTS.

A) A licensed secondhand goods dealer or pawnbroker must provide a receipt to the seller or consignor of any items which includes:

- 1) The address and phone number of the business;
- 2) The date;
- 3) A description of the item purchased;
- 4) The purchaser's signature; and
- 5) The sum needed to redeem the article.

B) A duplicate of each receipt shall be retained in the records of the license holder.

#### 75.18. POLICE ORDERS.

A) If an authorized law enforcement agency notifies a dealer not to sell an item, the item may not be sold or removed from the licensed premises until authorized to be released by the appropriate law enforcement agency. The release shall be requested by the licensee, and must be approved or denied by the law enforcement agency.

#### 75.19. WEAPONS.

A) A licensed pawnbroker or secondhand goods dealer may not receive as a pledge or otherwise accept for consignment or sale any revolver, pistol, sawed-off shotgun, automatic rifle, blackjack, switchblade, knife or other similar weapons or firearms unless the licensee is in possession of a current valid federal firearms license or federal firearms pawnbrokers license. This section is not intended to restrict the legitimate retailing of firearms under a federal firearms license.

#### 75.20. PROHIBITED ACTS.

A) It is unlawful for any:

- 1) A minor to sell or consign, or attempt to sell or consign, goods with a secondhand goods dealer or pawnbroker; (It is also unlawful for any secondhand goods dealer or pawnbroker to receive goods from a minor.)
- 2) Secondhand goods dealer or pawnbroker to receive any goods from a person of unsound mind or an intoxicated person; and/or
- 3) Secondhand goods dealer or pawnbroker to receive goods unless the seller presents identification in the form of a valid picture driver's license or other pictured identification issued by the state or federal government.

#### 75.21. REDEMPTION PERIOD.

A) A person who pawns an item shall have at least 30 days to redeem the item before it may be sold, subject to the additional holding requirement provided for herein.

#### 75.22. PAYMENTS BY CHECK.

A) When a secondhand goods dealer buys or otherwise receives an item at the licensed place of business, payment must be made by check payable to the named payee who is the actual intended seller.

B) This section does not apply to pawnbrokers.

#### 75.23. INSPECTIONS.

A) A peace officer or any properly designated employee of the City, the county or the state may enter, inspect and search business premises licensed under this section during business hours without a warrant.

#### 75.24. APPLICABILITY.

A) The licenses required by this section shall be applied for within 30 days of the effective date of this section. The licenses shall be obtained within 60 days of the effective date of this section. If the licenses are not obtained within the 60-day period, the designated business shall cease operating within the City, unless the Council extends the time for issuance of the license. All other provisions of this chapter shall be effective and complied with within 60 days after the effective date of this section.



## CHAPTER 76: GARAGE SALES

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### 76.01. GARAGE/RUMMAGE/YARD SALES.

A) All garage/rummage/yard sales shall be limited to a maximum of four consecutive days and shall occur no more than five times within one calendar year per property.

B) Signs for garage/rummage/yard sales may be posted up to one week in advance. All signs must be removed promptly at the end of the sale.

## CHAPTER 77: FIREWORKS

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### 77.01. PURPOSE AND APPLICABILITY.

A) This chapter is hereby established in order to regulate the sale of fireworks in the City. This chapter does not regulate the conduct of fireworks displays. Regulation of the conduct of fireworks displays may be regulated elsewhere.

### 77.02. DEFINITIONS.

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

- 1) FIREWORKS. The same meaning as defined in M.S. § 624.20, as it may be amended from time to time.

### 77.03. PERMIT REQUIRED.

A) No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.

B) The Fire Chief shall give final approval or denial of an application for the manufacture, storage for commercial purposes, or sale of fireworks within 14 days of such application being made to the City.

C) Permits shall be issued for a period not to exceed one calendar year.

D) Prior to processing the application, the City must conduct a criminal records check of the permit applicant. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire/fireworks-related misdemeanor within the three years prior to the application.

E) Prior to processing the application, the Fire Chief, Code Official and/or Zoning Administrator shall determine that the proposed location complies with relevant City provisions.

F) The application shall include a letter from the person legally responsible for the property which the fireworks related activity will occur. Said letter shall grant permission to the applicant for the use of said property.

#### 77.04. SALES AND STORAGE OF FIREWORKS.

A) No person shall sell or store fireworks within 100 feet of any fuel dispensing apparatus.

B) It shall be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks. “NO SMOKING” signs must be conspicuously posted at the site and approved fire extinguishers must be located at the site and be readily available for use.

C) In buildings that do not have an automated sprinkling system, retail sales displays of fireworks shall be limited to a gross weight of 400 pounds of fireworks. In buildings that do contain an automated sprinkling system, the amount of fireworks contained in retail sales displays shall be determined by the City Fire Chief, Code Official and/or Zoning Administrator on a case by case basis after considering the building’s construction, fire suppression apparatus and any other relevant factors.

D) The requirements of this division are in addition to any requirements otherwise imposed by any building and zoning regulations, fire codes, or state laws.

E) Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.

F) No exterior storage, display, sales or transient sales of fireworks is permitted. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or properties used for educational purposes or assemblies.

G) A list of all consumer fireworks displayed and stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and shall be accompanied by the material safety data sheets.

H) Manufacturing, warehouse buildings or display in excess of the quantities listed in division (C) above for retail consumer fireworks shall be classified as an “H occupancy” and protected similarly to explosives and aerosols.

I) A handout describing fireworks shall be provided to each consumer purchasing fireworks.

J) The City Fire Chief, Code Official and/or Zoning Administrator has the right to inspect the site where fireworks are stored at any time during the permit period.

#### 77.05. USE AND POSSESSION.

A) It is unlawful to use, fire or discharge any fireworks along the route of and during any parade, in any place of public assembly, on any public property or in any commercial or industrial zoning district.

B) It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.

C) The discharge of fireworks shall be prohibited inside a building and within 15 feet of any building.

D) The Fire Chief may ban fireworks if dry or windy conditions occur.

E) Juveniles may not possess or use fireworks unless under the direct supervision of a responsible adult.

F) Fireworks may not be discharged in such a manner that may create a nuisance nor between the hours of 10:00 p.m. and 10:00 a.m.