

CHAPTER 3 LICENSES AND PERMITS

SECTION 300 - FOOD VENDING MACHINES

300.01 Definitions. Unless the context otherwise indicates, the following terms have the meanings stated:

Subd. 1 Vending Machine. Any self-service device offered for public use which, upon insertion of a coin, coins or token, or by other means, dispenses unit servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

Subd. 2 Machine Location. The room, enclosure, space or area where one or more vending machines are installed and operated.

Subd. 3 Commissary. Commissary, catering establishment, restaurant, or any other place in which food, beverage, ingredients, containers or supplies are kept, handled, prepared, or stored, and directly from which vending machines are served.

Subd. 4 Food. Any raw, cooked, or processed edible substance, beverage or ingredient used or intended for use in whole, or in part, for human consumption.

Subd. 5 Readily Perishable Foods. Any food or beverage or ingredients consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or other good capable of supporting rapid and progressive growth of micro-organisms which can cause food infections or food intoxication. However, products in hermetically-sealed containers processed by heat to prevent spoilage, and dehydrated, dry or powdered products so low in moisture content as to preclude development of micro-organisms are excluded from the terms of this definition.

Subd. 6 Hot Liquid Food or Beverage. Liquid food or beverage, the temperature of which at the time of service to the consumer is at least 150 degrees Fahrenheit.

Subd. 7 Single Service Article. Any utensil, container, implement, or wrapper intended for use only once in the preparation, storage, display, service, or consumption of food or beverage.

Subd. 8 Product Contact Surface. Any surface of the vending machine, appurtenances, or containers which comes into direct contact with any food, beverage, or ingredient.

Subd. 9 Adulterated. A food is adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may be injurious to health.

(b) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established.

(c) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption.

(d) If it has been prepared, packed, or stored under insanitary conditions whereby it may have become contaminated with filth, or rendered injurious to health.

(e) If the container is composed in whole or in part of a poisonous or deleterious substance which may render the contents injurious to health.

Subd. 10 Misbranding. The use of any written, printed, or graphic matter upon or accompanying products or containers dispensed from vending machines, including signs or placards displayed in relation to such products so dispensed, which is false or misleading, or which violates any applicable local, state or federal labeling requirements.

Subd. 11 Health Authority. The Anoka County Health Officer, or an authorized representative thereof.

Subd. 12 Operator. Any person who by contract, agreement, or ownership takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.

Subd. 13 Employee. Any operator or any person employed by him/her who handles any food, beverage, or ingredient to be dispensed through vending machines, or who comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials, used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

Subd. 14 Approved. Approved by the Council.

300.02 Permits.

Subd. 1 Issuance of Permit.

(a) It shall be unlawful for any person to engage in the operation of one or more vending machines in the City, who does not possess a currently valid operator's permit from the health authority. Only persons who

comply with the provisions of this Section shall be entitled to receive and retain such a permit.

(b) Any person desiring to operate one or more vending machines in the City, or its police jurisdiction, shall make application in writing to the health authority. Such applicant shall provide the following information:

(1) The applicant's full name, residence and post office address, and whether such applicant is an individual, firm, corporation, or partners, together with their addresses shall be included.

(2) The location of the commissary or commissaries, and of other establishments where supplies are kept and where vending machines are repaired or renovated.

(3) The identity and form of the product to be dispensed through vending machines, the number of each such type vending machine in his or her possession, and the proposed location of each vending machine in the City.

(4) The signature of the applicant or applicants.

(c) Upon Receipt of such application, the health authority shall make an inspection of the commissary, servicing, and transport facilities, and representative machine and machine locations to determine compliance with the provisions of this Section. A numbered operator's permit shall be issued to the applicant by the health authority after compliance by the operator with the applicable provisions of this Section. Such permit shall not be transferable.

(d) The operator's permit number, size and style approved by the health authority, shall be conspicuously displayed on each vending machine operated by the person.

(e) In order to retain an operator's permit, the operator shall maintain within the City, a list of all vending machines operated by him/her and their location of all commissaries or other establishments from which his/her machines are serviced. This information shall be available to the health authority upon request.

(f) In order to hold and retain an operator's permit, the operator shall notify the health authority of any change in operations involving new types of vending machines, or conversion of existing machines to dispense products other than those for which the permit was issued.

Subd. 2 Suspension or revocation of permit.

(a) After an opportunity for a hearing, and following the procedures provided in 300.04, an operator's permit may be temporarily suspended by the health authority upon violation by the permit holder of any of the provisions of this Section or may be revoked upon serious or repeated violation of such provisions.

(b) Notwithstanding any other provisions of this Section, whenever the health authority finds grossly unsanitary or other conditions involving the operations of any vending machine or commissary which, in his or her opinion, involves a substantial hazard to the public health, he or she may, without notice or hearing, issue a written order to the operator citing the existence of such condition and specifying corrective action to be taken and, if deemed necessary, requiring immediate discontinuance of operation. Such order shall be effective immediately and shall apply only to the vending machine, commissary or product involved. Any operator to whom such order is issued shall comply therewith, but upon petition to the health authority, shall be afforded a hearing as soon as possible. When necessary corrective action has been taken and on the request of the operator, the health authority shall make a re-inspection to determine whether operations may be resumed.

(c) After any hearing held under the provisions of this Section, the health authority shall sustain, modify, or rescind any notice or order considered in the hearing.

Subd. 3 Reinstatement of permit. Any operator whose permit has been suspended, may at any time make application for the reinstatement of the permit. Within ten days after the receipt of a written application, accompanied by, or including, a statement signed by the operator to the effect that the violated term or terms of this Section have been complied with, the health authority shall make a re-inspection. If the applicant is again complying with the terms of this Section, the permit shall be reinstated.

300.03 Adulterated or Misbranded Food or Beverage. It shall be

unlawful for any person within the City to sell, offer, or expose for sale, through vending machines, or to have in possession with intent to sell therefrom any food, beverage, or ingredient which is adulterated or misbranded. Samples of food, beverage, or ingredient may be taken and examined by the health authority as often as may be necessary to determine freedom from adulteration or misbranding. The health authority may, on written notice to the operator, impound and forbid the sale of any food or beverage which is adulterated or misbranded, or which he or she has probable cause to believe to be adulterated or misbranded. After the operator has been given an opportunity for a hearing, the health authority may

cause to be removed or destroyed any food or beverage which is adulterated or misbranded; provided, that in the case of misbranding which can be corrected by proper labeling, such food or beverage may be released to the operator for correct labeling under the supervision of the health authority.

300.04 Inspection of Vending Machines and Commissaries. The health authority shall inspect the servicing, maintenance and operation of vending machines dispensing readily perishable foods and commissaries at least once every six months. Vending machines dispensing other than readily perishable foods may be inspected by the health authority, after proper identification shall be permitted to enter at any reasonable time, upon any private or public property within the City, or its police jurisdiction, where vending machines or commissaries are operated, or from which such machines are otherwise service, for the purpose of determining compliance with the provisions of this Section. The operator shall make provision for the health authority to have access, either in company with an employee or otherwise, to the interior of all vending machines operated by him/her. Whenever the health authority discovers a violation of any provision of this Section, the health authority shall notify the operator concerned. Such notice shall:

Subd. 1 Description of Condition. Describe the condition found and state which section of this Section is violated by such condition.

Subd. 2 Correction. Provide a specific and reasonable period of time for the correction of the condition.

Subd. 3 Hearing on Findings. State that an opportunity for a hearing on inspection findings will be provided, if a written request for such hearing is filed with the health authority within ten days of receipt of the notice. The health authority may advise the operator in writing that unless the violations are corrected within the specified period of time, any permit issued under the provisions of this Section may be suspended or revoked, in accordance with provisions of 300.02, or court action may be initiated.

300.05 Sanitation Requirements for Vending Machine Operations.

Subd. 1 Foods, Beverages, Ingredients, Consumer Containers, Equipment Maintenance, and Operations. Foods, beverages and ingredients intended for sale through vending machines shall be obtained from sources complying with the regulations of the City, and with other applicable state and federal laws and regulations. Such products shall be clean and wholesome, free from spoilage, and shall be processed, prepared, handled and stored in such a manner as to be protected against contamination and adulteration. All product protected from contamination. This subdivision shall be deemed to have been satisfied when all of the following requirements are met:

(a) All foods, beverages, and ingredients offered for sale through vending machines, shall be manufactured, processed, and prepared in commissaries or establishments which comply with all applicable local, state, and federal laws and regulations.

(b) All foods, beverages, and ingredients offered for sale through vending machines shall be wholesome and free from spoilage, contamination and adulteration.

(c) All foods, beverages, and ingredients shall be stored or packaged in clean, protective containers, and shall be handled, transported and vended in a sanitary manner. Wet storage of packaged products is prohibited.

(d) Readily perishable foods offered for sale through vending machines shall be dispensed to the consumer in the individual original container or wrapper into which it was placed at the commissary or at the manufacturer's or processor's plant, or such products shall be dispensed into single service containers. In those vending machines dispensing readily perishable foods, beverages, or ingredients in bulk, the bulk supplies of such foods, beverages, or ingredients in bulk, the bulk supplies of such foods, beverages, or ingredients shall be transferred only to a bulk vending machine container and appurtenances which are clean and have been subjected to an approved bactericidal process.

(e) Readily perishable foods or ingredients within the vending machine shall be maintained at a temperature not lower than 33 degrees F. nor higher than 50 degrees F. Vending machines dispensing readily perishable foods shall be provided with controls which insure the maintenance of these temperatures at all times; provided, that an exception may be made for the actual time required to fill or otherwise service the machine and for a maximum recovery period of 30 minutes following completion of filling or servicing operations. Such controls shall also place the machine in an inoperative condition until serviced by the operator, in the event of power failure or other condition, which permits the food storage compartment to attain a temperature above 50 degrees F., or below 33 degrees F., whichever is applicable. Vending machines dispensing readily perishable food shall be provided with a thermometer which, to an accuracy of plus or minus 2 degrees F., indicates the air temperature of the food storage compartment. The temperature for hot liquid foods or beverages shall be not less than 150 degrees F.; and for frozen foods, not more than 32 degrees F.

(f) Milk and fluid milk products offered for sale through vending machines shall be dispensed only in

individual, original containers or from bulk containers into which such product was placed at the milk plant; provided, that in the case of vending machines that use fluid milk products as an ingredient in hot liquid foods or beverages, such milk product may be transferred at the machine location from the individual, original container of not more than one-half gallon capacity to a vending machine bulk container which is clean and has been subjected to an approved bactericidal process in accordance with paragraph (h) of this Sub-section; provided further, that in such transfer, the entire contents of the individual, original container are used.

(g) All multi-use parts of any bulk milk vending machine which come into direct contact with the milk or milk product shall be effectively cleaned and bactericidally treated at the milk plant; provided, that single service dispensing tubes which receive bactericidal treatment at the fabricating plant and which are individually packaged in such manner as to preclude contamination, may be exempted from this provision. The can or other bulk milk container shall be filled only at the milk plant and shall be sealed with two seals in such manner as to make it impossible to withdraw any part of its contents without breaking one seal, and impractical to introduce any substance without breaking the outer seal. The delivery tube and any milk contact parts of the dispensing device shall be attached at the milk plant, and shall be protected by a moisture-proof covering or housed in a compartment with a moisture-tight closure, which shall not be removed until after the container is placed in the refrigerated compartment of the vending machine.

(h) With the exception of product contact surfaces of bulk vending machines for which separate provisions for cleaning and bactericidal treatment are specified in paragraph (g) of this Sub-section, all multi-use containers or parts of vending machines which come into direct contact with readily perishable foods, beverages, or ingredients shall be removed from the machine daily and shall be thoroughly cleaned and effectively subjected to an approved bactericidal process at the commissary or other approved facility; provided, that the requirement for daily cleaning and bactericidal treatments may be waived for those contact surfaces which are maintained at all times at a temperature of not higher than 50 degrees F. or at a temperature of not lower than 33 degrees F., whichever is applicable. Such parts shall, after cleaning and bactericidal treatment, be protected from contamination.

(i) All parts of vending machines which come into direct contact with other than readily perishable foods, shall be thoroughly cleaned and subjected to bactericidal

treatment by methods approved by the health authority. The frequency of such cleaning and bactericidal treatment shall be established by the health authority based upon the type of product being dispensed. A record of such cleaning and bactericidal treatment operations shall be maintained by the operator in each machine and shall be current for at least the past 30 days.

(j) All single service containers, which receive food or beverage from machines dispensing such products in bulk, shall be purchased in sanitary cartons or packages which protect the containers from contamination, shall be stored in a clean dry place until used, and shall be handled in a sanitary manner. Such containers shall be stored in the original carton or package in which they were placed at the point of manufacture until introduced into the container magazine or dispense of the vending machine. Single service containers stored within the vending machine shall be protected from manual contact, dust, insects, rodents and their contamination.

Subd. 2 Machine Location. The machine location shall be such as to minimize the potential for contamination of the product, shall be easily cleanable, and shall be kept clean. This Subdivision 2 shall be deemed to have been satisfied when all of the following requirements are met:

(a) Each vending machine shall be located in a room, area, or space which can be maintained in a clean condition and which is protected from overhead leakage from drains and piping. Each vending machine shall be so located that the space around and under the machine can be readily cleaned, and so that insect and rodent harborage is not created.

(b) The floor area upon which vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

Subd. 3 Exterior Construction and Maintenance. The exterior construction of the vending machine shall be such as to facilitate cleaning and to minimize the entrance of insects and rodents, and the exterior of the machine shall be kept clean. Service connections shall be such as to protect against unintentional or accidental interruption of service to the machine. This Subdivision 3 shall be deemed to have been satisfied when all of the following requirements are met:

(a) The vending machine shall be of sturdy construction and the exterior shall be so designed, fabricated, and finished as to facilitate its being kept clean, and to minimize the entrance of insects and rodents.

(b) Door and panel access openings to the product and container storage spaces of the machine shall be tight-fitting, and if necessary gasketed, so as to preclude the entrance of dust, moisture, insects and rodents.

(c) All necessary ventilation louvers or openings into vending machines shall be effectively screened against insects and rodents; provided that an exception to this provision may be made for vending machines currently in use until such time as such machines are relocated or removed from present machine location for any other purposes. Such screening material shall be not less than 16 mesh to the inch or equivalent.

(d) In all new vending machines in which a condenser unit is an integral part of the machine, such unit shall be sealed from the product and container storage spaces.

(e) Unless the vending machine is sealed to the floor so as to prevent seepage underneath, or can be manually moved with ease, one or more of the following

provisions shall be utilized to facilitate cleaning operations:

(1) The machine shall be mounted on legs six or more inches in height.

(2) The machine shall be mounted on casters or rollers.

(3) The machine shall be mounted on gliders which permit it to be easily moved.

(f) All service connections through an exterior wall of the machine, including water, gas, electrical, and refrigeration connections, shall be grommeted or sealed to prevent the entrance of insects and rodents. All connections to such utilities shall be such as to discourage their unauthorized or unintentional disconnection.

Subd. 4 Interior Construction and Maintenance. All interior surfaces and component parts of the vending machine shall be so designed and constructed as to permit easy cleaning, and shall be kept clean. All product contact surfaces of the machine shall be of smooth, nontoxic, corrosion-resistant, and relatively non-absorbent material, and shall be capable of withstanding repeated cleaning and bactericidal treatment by normal procedures. Such surfaces shall be protected against contamination. This Subdivision 4 shall be deemed to have been satisfied when all of the following requirements are met:

(a) The non-product contact surfaces of the interior of vending machines shall be so designed and constructed as to permit easy cleaning, and to facilitate maintenance operations.

(b) All product contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks and chipped places. The design of such surfaces shall be such as to preclude routine contact between food and V-type threaded surfaces. All joints and welds in product contact surfaces shall be smooth; and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.

(c) All product or ingredient contact surfaces of vending machines, including containers, pipes, valves and fittings, shall be constructed of non-toxic corrosion-resistant, and relative non-absorbent materials, and shall be kept clean. All containers, valves, fittings, chutes, and faucets, which are in contact with food, shall be easily and readily removable, and so fabricated as to be easily disassembled and when disassembled, all surfaces shall be visible for inspection and cleaning. In machines of such design that product contact pipes or tubing are not readily removable, in place cleaning of such pipes and pipe fittings may be permitted; provided:

(1) They are so arranged that cleaning and bactericidal solutions can be circulated throughout the fixed system.

(2) Such solutions will contact all interior surfaces.

(3) The system is self-draining or otherwise completely evacuated.

(4) The cleaning procedures result in thorough cleaning of the equipment.

(d) The openings into all non-pressurized containers used for the storage of vendible foods and ingredients, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover surface. Any port opening through the cover shall be flanged upward at least 3/8 inch and shall be provided with a cover which overlaps the flange. Condensation or drip-deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts and other functional parts extending into the container, unless a water-tight joint is provided. Such aprons shall be considered as satisfactory covers for these openings which are in

continuous use. Gaskets, if used, shall be of a material which is non-toxic, relatively stable, and relatively non-absorbent, and shall have a smooth surface. All basket retaining grooves shall be readily cleanable.

(e) The delivery tube or chute and orifice of all bulk food and bulk beverage vending machines shall be protected from normal manual contact, dust, insects, rodents, and other contamination. The design shall be such as to divert condensation or other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept closed, except when the machine is in the process of delivering food or beverage.

(f) The product storage compartment within vending machines dispensing packaged liquid products, shall be so constructed as to be self-draining, or shall be provided with a drain outlet which permits complete draining of the compartment. All such drains shall be easily cleanable.

(g) Opening devices which come into contact with the product or the product contact surface of the containers, shall be constructed of smooth, non-toxic, corrosion-resistant, and relatively non-absorbent materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multi-use opening devices which come into contact with the product or product contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination, and such parts shall be readily removable for cleaning and shall be kept clean.

Subd. 5 Water Supply. Water used in vending machines shall be from an approved source, and shall be of a safe and sanitary quality. This Subdivision 5 shall be deemed to have been satisfied when all of the following requirements are met:

(a) All water used in vending machines shall be of a safe and sanitary quality, and from a source approved by the health authority. Water used as a product ingredient shall be piped into the vending machine under pressure, and all connections and fittings shall be installed in accordance with local or state plumbing regulations. Containers for the storage of water for product ingredient, which are not a part of the closed water system, shall be designed and maintained as product contact surfaces.

(b) If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element.

Replacement elements shall be handled in a sanitary manner.

(c) All vending machines which dispense carbonated beverages and which are connected to a water supply system, shall be equipped with two (or a double) check valves; or an air gap; or a device to vent carbon dioxide to the atmosphere; or other device approved by the health authority, which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

(d) Where check valves are used for the protection of the water supply system, a screen of not less than 100 mesh to the inch shall be installed in the water supply line immediately upstream from the check valves.

(e) In all vending machines which dispense carbonated beverages and which are connected to a water supply system, the ingredient contact surfaces from the check valves or other protective device downstream, including the device itself, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

Subd. 6 Waste Disposal. All wastes shall be properly disposed of, and pending disposition shall be kept in suitable containers so as to prevent creating a nuisance. This Subdivision 6 shall be deemed to have been satisfied when all of the following requirements are met:

(a) All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in a manner approved by the health authority.

(b) Self-closing, leakproof, readily cleanable, plainly labeled and designated waste container or containers shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures and other single service items. Such waste containers shall not be located within the vending machine; provided, that an exception may be made for those machines dispensing only packaged products with crown closures, in which case the closure receptacle may be located within the machine. Suitable racks or cases shall be provided for multi-use containers or bottles.

(c) Containers shall be provided within all machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device shall be provided which will place the vending machine out of operation before such

container overflows. Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion-resistant. If liquid wastes from drip, spillage or overflow, which originate within the machine are discharged into a sewerage system, the connection to the sewer shall be through an air gap.

Subd. 7 Delivery of Foods, Ingredients, Equipment and Supplies to Machine Location. Foods, beverages, and ingredients, and product contact surfaces of containers, equipment and supplies, shall be protected from contamination while in transit to machine location. Readily perishable foods and beverages while in transit shall be maintained at a temperature not higher than 50 degrees F. This Subdivision 7 shall be deemed to have been satisfied when all of the following requirements are met:

(a) Foods, beverages, or ingredients while in transit to vending machine locations shall be protected from the elements, dirt, dust, insects, rodents, and other contamination. Similar protection shall be provided for single-service containers, and for the product contact surfaces of equipment, containers, and devices in transit to machine locations.

(b) Readily perishable foods or beverages, while in transit to vending machine locations shall be maintained at a temperature of not more than 50 degrees F.

Subd. 8 Personnel Cleanliness. Employees shall keep their hands clean, and shall wear clean outer garments while engaged in handling foods or beverages, or product contact surfaces of utensils or equipment. Employees shall wash their hands immediately prior to engaging in any vending machine servicing operation which may bring them into contact with foods, beverages, or ingredients, or with product contact surfaces of utensils, containers, or equipment. While engaged in such servicing operations, employees shall wear clean outer garments.

300.06 Disease Control. No employee with any disease in a communicable form, or who is a carrier of such disease, shall work in any commissary or in vending machine operations in any capacity which brings him/her into contact with the production, handling, storage, or transportation of foods, beverage, ingredients or equipment used in vending machine operations; and no operator shall employ in any such capacity any such person, or any person suspected of having any disease in a communicable form, or of being a carrier of such disease. Any employee who has a discharging or infected wound, sore, or lesion on hands, arms or any exposed portion of the body shall be excluded from those operations which will bring him/her into contact with foods, beverages, utensils, or equipment used in vending machine operations. Any operator among whose employees there occurs a communicable disease or who suspects that any employee has contracted any disease in a

communicable form or has become a carrier of such disease, shall notify the health authority immediately.

300.07 Procedure When Infection is Suspected. When suspicion arises as to the possibility of transmission of infection from any employee, the health authority is authorized to require any or all of the following measures:

Subd. 1 Employee Exclusion. The immediate exclusion of the employee from all commissaries and vending machine operations.

Subd. 2 Operation Closing. The immediate closing of the commissaries and operations concerned until, in the opinion of the health authority, no further danger of disease outbreak exists.

Subd. 3 Medical Examinations. Adequate medical examinations of the employee and of the associates, with such laboratory examinations as may be indicated.

300.08 Commissaries Outside Jurisdiction of the Health Authority. Foods, beverages and ingredients from commissaries outside the jurisdiction of the health authority of the City, may be sold within the City, if such commissaries conform to the provisions of the food establishment sanitation regulations of the City, the State or the Federal Government, or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the health authority may accept reports from the responsible authority in the jurisdiction where the commissary or commissaries are located.

300.09 Insurance. No permit shall be issued until the applicant therefor has placed on file with the City Clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with the applicant's business. Such insurance shall be in the minimum amount of \$100,000 for each person, and \$300,000 for each accident.

SECTION 305 - TRANSIENT MERCHANTS, PEDDLERS AND SOLICITORS

305.01 Definitions. As used in this Section, the following terms are defined as follows:

Subd. 1 Transient Merchant. Any person who, either as principal or agent engages in or transacts any temporary or transient business in the City and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, vacant lot, stationary motor vehicle, or railroad car for the exhibition and sale of such goods, wares or merchandise.

Subd. 2 Peddler. Any person who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares, merchandise or

personal property of any nature whatsoever or offering or exposing the same for sale.

Subd. 3 Solicitor. Any person who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for the future delivery of goods, wares, merchandise or personal property of any nature whatsoever, for services to be performed in the future, including home improvements and repairs, or for contributions of money or other property, whether or not such individual carries or exposes for sale a sample of the subject of such sale, and whether or not the individual is collecting advance payments.

305.02 License Required. No transient merchant, peddler or solicitor, other than a solicitor doing business by bona fide appointment, shall sell or offer for sale any merchandise or service, or attempt to do any business in the City, without first having obtained a license for such business in compliance with the requirements of this ordinance. All licenses shall be issued by the City Council for one year beginning on the date of the license. A single license may be issued to a corporation, limited liability company or partnership covering all of its employees or agents; provided, however, that the information required by Section 305.04 of this Code is provided for each individual who will act as a transient merchant, solicitor or peddler.

305.03 Exemptions. The following individuals and organizations are not required to obtain a license:

- a. Peddlers or solicitors who call exclusively on commercial, industrial or professional establishments to sell their products or services for use solely by such establishments, and not for the personal use of the employees or customers of such establishments.
- b. Peddlers or solicitors who call exclusively on residences.
- c. Individuals who conduct garage sales in conformance with a separate provision of this Code.
- d. Solicitation for contributions of money or other property for bona fide religious, charitable, educational or political purposes.
- e. Peddling of newspapers or magazines or solicitation of orders for future delivery of newspapers or magazines.
- f. Any peddler, solicitor or transient merchant who sells products of a farm or garden cultivated by that person.

305.04 Application. The application for a license shall be made on a form provided by the City. In addition to any information

required by the application, the applicant shall show the following:

a. The name, permanent address and telephone number of the applicant and of all persons who will be acting on behalf of the applicant in the City.

b. The type of business and a written description of the nature of the business and the goods or services to be sold or solicited.

c. In the case of transient merchants, the place where the business is to be conducted.

d. The name and address of the employer, principal or supplier of the applicant, together with credentials establishing the applicant's relationship with the employer, principal or supplier.

e. The length of time for which the right to do business is desired and a description of the hours the applicant desires to do business.

f. The source of supply of the goods or services proposed to be sold or provided and the proposed method of delivery.

g. A photograph of the applicant and each individual who will be acting as a transient merchant, peddler or solicitor for the applicant. The photograph must have been taken within sixty days prior to the date of the filing of the application, shall be at least 2 inches by 2 inches, and shall show the head and shoulders of the individual in a clear and distinguishable manner.

h. A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance and, if so, the nature, place and date of the offense, and the punishment or penalty assessed.

i. If a vehicle is to be used, a description of the vehicle together with its license number and state of registration.

j. In the case of transient merchants, written proof of permission by the owner of the premises to use the property of the owner for transient sale, together with the owner's name, address and telephone number.

k. In the case of peddlers and transient merchants, a statement that the applicant has obtained a license pursuant to Minnesota Statutes, Chapter 329, and a true and correct copy of said license.

305.05 Prohibited Practices. No transient merchant, peddler or solicitor shall:

- a. Sell or solicit before the hour of 9 a.m. or after 8 p.m.
- b. Enter or conduct business upon any premises where a sign or plaque is conspicuously posted stating in effect that no peddlers or solicitors are allowed. Such signs shall have letters a minimum of ½ inch high.
- c. Obstruct the vision at the intersection of any street or highway in whole or part in any unsafe manner, as determined by the City in its sole discretion.
- d. Occupy any public right-of-way or other public property for the purpose of advertising and/or conducting business.

305.06 Exhibition of Licenses. All licenses pursuant to this section shall be carried by the peddler or solicitor on his person or, in the case of a transient merchant, conspicuously posted in the place of business. Such license shall be shown at the request of any individual.

305.07 License Fees. Fees for licenses shall be as set from time to time in Section 350 of this Code. The City Council may set a lower license fee in Section 350 of this Code for transient merchants which are engaging in the transient merchant activity to raise money for bona fide religious, charitable, educational, or political purposes.

305.08 Penalties. Any violation of this section is a misdemeanor. Each day a violation occurs shall constitute a separate violation.

SECTION 306 - PAWNBROKERS AND SECONDHAND GOODS DEALERS

306.01 Definitions. As used in this section, the following terms are defined as follows:

Subd. 1. Pawnbroker. A person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Subd. 2. Secondhand Goods Dealer. A person engaged in the business of buying or selling secondhand goods of any kind (excluding motor vehicles), but not including used goods and merchandise taken as part or full payment for new goods and merchandise.

Subd. 3. Pawn Shop. The location at which or premises in which a pawnbroker regularly conducts business.

Subd. 4. Pawn Transaction. Any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Subd. 5. Person. An individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

Subd. 6. Pledged Goods. Tangible personal property other than choses in action, securities, bank drafts or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

306.02 License Required. No person shall engage in or carry on the business of pawnbroker or secondhand goods dealer without a license issued by the City for each and every separate office or place of business. All licenses shall be issued by the City Council for one year beginning on the date of the license. A single license may be issued to a corporation, limited liability company or partnership covering all of its employees or agents; provided, however, that the information required by Section 306.07 is provided for each individual who will act as a pawnbroker or secondhand goods dealer.

306.03 Exemptions. Pawnbrokers and secondhand goods dealers shall not apply to or include the following:

Subd. 1. The sale of secondhand goods where all of the following 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. That no sale exceeds a period of 72 consecutive hours.

c. The items offered for sale are owned by the occupant.

d. No more than four (4) sales are held in any twelve (12) month period.

e. None of the items offered for sale have been purchased for resale or received on consignment for purpose of resale.

Subd. 2. The sale of secondhand books, or magazines, sport trading cards, sound or video recordings or films.

Subd. 3. The sale of goods at an auction held by a licensed auctioneer.

Subd. 4. Sales by a person licensed as a motor vehicle dealer.

Subd. 5. 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.

Subd. 6. Goods at a public or farmer's market.

Subd. 7. Goods sold at an exhibition, providing the exhibition does not last longer than ten (10) days in any twelve (12) month period.

Subd. 8. The sale of furniture, clothing and related accessories.

Subd. 9. Sales made by the sheriff or other public officials in the discharge of their official duties.

Subd. 10. Sales made by assignees or receivers appointed in the state to make sales for the benefit of creditors.

Subd. 11. Any bank regulated by the State of Minnesota, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any other federal or state authority and their affiliates; any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, or any successor to it, and all affiliates of those banks and savings associations; any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the department of commerce.

306.04 Separate Licenses Required. 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 may not conduct, operate or engage in the business of a pawnbroker without having obtained a pawnbroker license in addition to a secondhand goods dealer license.

306.05 Multiple Dealers. The owners of a business, at which two or more secondhand goods dealers are engaged in business by maintaining separate sales and identifying themselves to the public as individual dealers, may obtain a multiple secondhand goods dealer license for that location. A multiple license may not be issued unless the following requirements are met:

Subd. 1. The business must have a single name and address.

Subd. 2. The business must operate in a compact and contiguous space as specified in the license.

Subd. 3. The business must be under the unified control and supervision of the one person who holds the license.

Subd. 4. Sales must be consummated at a central point of register operated by the owner of the business, and the owner must maintain a comprehensive account of all sales.

Subd. 5. 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 licensed under this section.

306.06 License Fee.

Subd. 1. Pawnbroker. The annual license fee for a pawnbroker shall be set by the City Council by resolution.

Subd. 2. Secondhand Goods Dealer. The annual license fee for a secondhand goods dealer shall be set by the City Council by resolution.

Subd. 3. Multiple Sales. The annual license fee for a secondhand goods dealer for a location where more than one secondhand goods dealer is engaged in business shall be set by the City Council by resolution.

Subd. 4. Investigation Fee. In addition to the annual fee, the City Council may establish, by resolution, an investigation fee to be paid upon initial application and upon any change in ownership. Change in ownership shall include, in the case of a partnership, a change in identity of any partner and in the case of a corporation, a change in ownership of more than five percent (5%) of shares.

306.07 Application.

Subd. 1. Contents. A license applicant must complete an application form provided by the City. The application must be in a form and request information of the applicant as determined by the City Council. In addition to any information which may be required by the City Council, the application shall contain the following information:

a. The name, permanent address and telephone number of the applicant and of all persons who will be acting on behalf of the applicant in the City.

b. Whether applicant has ever used or been known by a name other than his/her true name and, if so, what was such name or names, and information concerning dates and places where used.

c. The type of business and a written description of the nature of the business and the goods or services to be sold or solicited.

d. The length of time for which the right to do business is desired and a description of the hours the applicant desires to do business.

e. 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.

f. Kind, name and location of every business or occupation applicant has been engaged in during the preceding five (5) years.

g. Names and addresses of applicant's employers and partners, if any, for the preceding five (5) years.

h. Whether applicant has ever been convicted of a felony, gross misdemeanor or misdemeanor, including traffic violations, and if so, the date and place of conviction and the nature of the offense.

i. At least four (4) character references from residents of the state of Minnesota.

Subd. 2. Execution. If the applicant is a natural person, the application must be signed and sworn to by the person; if a corporation, by an agent authorized to sign; if a partnership, by a partner.

Subd. 3. Fee. The application must be accompanied by the required license fee and the established fee for investigation. The annual license fee, but not the investigation fee, will be returned to the applicant if the application is rejected or denied.

Subd. 4. False Statements. It is unlawful to knowingly make a false statement in the license application. In addition to all other penalties, the license may be denied or subsequently revoked by the City Council for a violation of this section.

306.08 Bond. A pawnbroker or secondhand goods dealer license will not be issued unless the applicant files with the City a bond with corporate surety, cash or a United States government bond in the

amount of five thousand dollars (\$5,000.00) for a pawnbroker license or five thousand dollars (\$5,000.00) for a secondhand goods dealer license. The bond must be conditioned on the licensee obeying the laws and ordinances governing the licensed business and paying all fees, taxes, penalties and other charges associated with the business. The bond must provide that it is forfeited to the City upon a violation of law or ordinance.

306.09 Site Plan. The application for a pawnbroker or secondhand goods dealer license must be accompanied by a site plan drawn to scale. The site plan must contain:

Subd. 1. A legal description of the property upon which the proposed licensed premises is situated.

Subd. 2. A plot plan.

Subd. 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.

Subd. 4. The location of and distance from the nearest church, school, hospital and residence.

Subd. 5. A floor plan of the licensed premises.

306.10 Investigations.

Subd. 1. Preliminary Investigation. 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 Chief of Police and the results reported to the City Council. The Chief of Police or his/her designee must verify the facts stated in the application, and must report all convicted violations of any state laws, federal laws or municipal ordinances involving the applicant, interested persons, or the licensed premises while under the applicant's proprietorship.

Subd. 2. Fee. The fee charged by the City to an applicant for the cost of investigation is established by the City Council. At the time of each original application for a license, the applicant(s) shall each pay a minimum investigation fee as set by the Council from time to time. This investigation fee shall not be subject to refund. If the expenses of the investigation relating to any application exceed the minimum investigation fee, the City shall notify the applicant(s) of the fact and shall require applicant(s) to pay an additional investigation fee which the City deems necessary to complete the City's investigation of the applicant(s). The applicant(s) shall pay such an additional investigation fee within a five (5) day period, or the City shall discontinue consideration of the application. Non-

payment of any additional investigation fees required shall be grounds for denial of application.

306.11 Public Hearing. A pawnbroker or secondhand goods dealer license will not be issued or renewed without a public hearing. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. The public hearing must be preceded by at least ten (10) days' published notice specifying the location of the proposed licensed business premises.

306.12 Persons Ineligible for License. A pawnbroker or secondhand goods dealer license will not be issued to:

Subd. 1. A person under 18 years of age.

Subd. 2. A person not a citizen of the United States or a resident alien, or upon whom it is impractical to conduct a background and financial investigation due to the unavailability of information.

Subd. 3. A person who has been convicted of any state or federal law relating to receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, theft, damage or trespass to property, operation of a business, crimes of violence or any law or ordinance regulating the business of pawnbroker, secondhand goods dealers or precious metal dealers or any other conviction resulting in a sentence of one year or greater.

Subd. 4. A person who is not of good moral character or repute.

Subd. 5. When the City Council determines, after investigation and public hearing that issuance or renewal of the license would adversely affect the public health, safety or welfare.

Subd. 6. A person who holds an intoxicating liquor license under City Ordinance.

Subd. 7. A person who within the preceding five (5) years of the license application date had a pawnbroker or secondhand goods dealer license revoked.

306.13 Places Ineligible for License. A license will not be issued or renewed under this section for any place or for any business.

Subd. 1. If taxes, assessments or other financial claims of the City or the State of Minnesota on the licensee's business premises are delinquent and unpaid.

Subd. 2. If the premises is located within 300 feet of a school or church.

Subd. 3. Where operation of a licensed premises would violate zoning ordinances.

Subd. 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.

306.14 Conditional Licenses. 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 are situated. The Council, in granting a conditional license, will specify when the modifications must be completed. Failure to comply with the conditions of the license is grounds for the City Council to refuse to renew the license.

306.15 Death of Licensee. In the case of the death of a licensee, the personal representative of the licensee may continue operation of the business for not more than 90 days, and requires completion of a new application process.

306.16 Records Required. Each licensee shall keep a record of each transaction made in the course of their business. The licensee shall deliver a true and correct copy of each transaction to the Chief of Police or his/her designee according to a time table established by the Chief of Police. The licensee shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in computerized records approved by the City:

Subd. 1. The full name, address, telephone number and date of birth of the person from whom the item was received.

Subd. 2. The time and date of transaction.

Subd. 3. A complete description of the item pledged or sold, including, but not limited to, any trademark, identification number, model number, brand name or other identifying marks and the purchase price.

Subd. 4. A physical description of the person pawning or selling the item including: race, sex, height, weight, color of eyes, color of hair.

Subd. 5. The amount of money paid or advanced for the item.

Subd. 6. The signature of the person pledging or selling the item.

Subd. 7. The identification number from any of the following forms of identification of the seller: Valid driver's license containing a picture, Minnesota identification card, picture identification issued by the

state of residency of the person from whom the item was received.

Subd. 8. Any other information the Chief of Police or his/her designee shall require.

306.17 Printed Pawn Ticket. The following shall be printed on all pawn tickets:

Subd. 1. The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than sixty (60) days past the date of the pawn transaction, renewal or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods."

Subd. 2. The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.

Subd. 3. The statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record."

Subd. 4. A blank line for the pledgor's signature.

306.18 Stolen Goods. A licensed pawnbroker or secondhand goods dealer must report immediately to the police 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. If any goods, articles or things shall be advertised in any public newspaper of the City as having been lost or stolen, and such goods, articles or things shall then come into the possession of any licensee, a supplemental report will go into the licensee's daily report for that day to the Chief of Police or his/her designee, giving information in writing that certain goods, articles or things advertised are in said licensee's possession, and shall not dispose of the same except upon written authority to do so from the Chief of Police or his/her designee. The Police Chief or his/her designee shall have the authority to immediately seize any stolen property.

306.19 Holding. An item received by a secondhand goods dealer or pawnbroker, for which a report to the police is required, may not be sold or otherwise transferred for a period of thirty (30) days after the date of such report to the police. However, an

individual may redeem an item pawned seventy-two (72) hours after the item was received on deposit, excluding Sundays and legal holidays.

306.20 Receipt. A licensed secondhand goods dealer or pawnbroker must provide a receipt to the seller or pledgor of any items which include: Name, address, phone number of the business, the date, description of the item purchased and the purchaser's signature.

306.21 Police Orders. If the City police officer 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 police.

306.22 Weapons. 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, throwing stars, nun chaku, marshall art weapons or other similar weapons or firearms.

306.23 Hours of Operation. No property shall be received as a pledge or purchase by any pawnbroker or secondhand goods dealer, nor shall any property be sold by a pawnbroker or secondhand goods dealer from 9:00 p.m. Saturday to 7:00 a.m. Monday, nor on any other date before 7:00 a.m., nor on any day after 9:00 p.m. Further, no pawnbroker or secondhand goods dealer shall be open for business on Christmas Day, Thanksgiving Day or on a Sunday.

306.24 Prohibited Acts.

Subd. 1 Minor. A minor may not sell or consign, or attempt to sell or consign, goods with a secondhand goods dealer or pawnbroker. A secondhand goods dealer or pawnbroker may not receive goods from a minor.

Subd. 2 Others. A secondhand goods dealer or pawnbroker may not receive any goods from a person of unsound mind or an intoxicated person.

Subd. 3 False Entries. A secondhand goods dealer or pawnbroker may not make any false entry in their records of the transactions.

Subd. 4 Serial Numbers. No licensee nor any agent or employee of a licensee shall purchase, accept or receive any article of property which contains an altered or obliterated serial number or an article of property whose serial number has been removed.

Subd. 5 Security Interests. 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.

Subd. 6 Owner of Property. 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.

Subd. 7 Valid Driver's License or Photo Identification Card. No licensee nor any agent or employee shall purchase, accept or receive any article of property, from any person, without first having examined a valid photo driver's license or a valid photo identification card issued by the state of residency of the person.

Subd. 8 Conduct of Persons on Licensed Premises

a. 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. 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.

306.25 Adequate Signage. All licensees shall b adequate signage inform persons seeking to pawn, pledge, sell, leave or deposit articles of property with the licensee of the following requirements. For the purpose of this section "Adequate Signage" shall be deemed to mean at least one sign, of not less than four (4) square feet in surface area, comprised of lettering, of not less than three-quarters (3/4) 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.

306.26 Denial, Suspension or Revocation of License. A license under this Section may be denied, suspended or revoked by the Council after a public hearing where the licensee is granted the opportunity to be heard, for one or more of the following reasons:

Subd. 1 The operation of the business is in conflict with any provision of this Code.

Subd. 2 The operation of the business is in conflict with any health, building, building maintenance, zoning or any other provision of this Code or law.

Subd. 3 The licensee or the business premises fails to conform with the standards for license application contained in this Section.

Subd. 4 The licensee has failed to comply with one or more provisions of this Section or any statute, rule or ordinance pertaining to the businesses of pawnbroker or secondhand goods dealer.

Subd. 5 Fraud, misrepresentation or bribery in securing a license.

Subd. 6 Fraud, misrepresentation or false statements in the course of the applicant's business.

Subd. 7 Subject who has been convicted of any state or federal law relating to receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, theft, damage or trespass of property, operation of a business, crimes of violence, or any law or Ordinance regulating the business of pawnbrokers, secondhand goods dealers or precious metal dealers or any other conviction relating in a sentence of one year or greater.

306.27 Redemption Period. A person who pawns an item shall have at least five (5) months to redeem the item before it may be sold.

306.28 Inspections. A peace officer or any properly-designated employee of the City or the State of Minnesota may enter and search business premises licensed under this Section during business hours, without a warrant.

306.29 Penalties. Any person who violates this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished according to prevailing state laws.

306.30 Provisions of State Law Adopted. Except where this Section contains a different provision, the provisions of the Minnesota Statutes relating to pawnbrokers and secondhand goods dealers are adopted and made part of this Section as if set out in full. In the event of any conflict between this Section and the provisions of the state law, the provision with the more stringent requirement of the licenses shall prevail.

SECTION 308 REGULATING COMMERCIAL SAUNA AND MASSAGE SERVICES

308.01 STATEMENT OF POLICY.

(A) The City Council of the City deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which provide therapeutic massage or public saunas. Similar adult-oriented services operate under different names are included in order to protect the public health, safety and welfare and to guard against the inception and transmission of disease.

(B) The City Council finds that commercial enterprises such as the type described in this Chapter, and all other similar establishments whose services include sessions offered to adults, 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 morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, policing, licensing and regulation.

(C) The City Council finds that commercial enterprises such as the type described in this Chapter, and all other similar establishments whose services include sessions offered to adults, conducted in private by members of the same or the opposite sex and employing personnel with specialized training, personal licensing and/or standards of professional practice are less susceptible to operation in a manner contravening, subverting or endangering the morals of the community thus requiring a different level of inspection, licensing and regulation than establishments employing personnel with no specialized training, personal licensing and/or standards of professional practice.

The City further finds that regulating businesses and individuals who practice therapeutic massage and work associated with massage by creating a licensed, and professional standards help to:

- (1) Create barriers to entry into the commercial field of therapeutic massage against individuals or businesses likely to commit criminal acts or provide injurious services to the public;
- (2) Ensure that people who use therapeutic massage for health and wellness will be receiving the highest possible level of competent, ethical, and effective treatment and care;

- (3) Remove the stigma of therapeutic massage being a sensual or sexual activity and promote it as an accepted business practice.

308.02 DEFINITIONS.

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

DAY SPA. A spa that offers all or a portion of the following:

(1) Environment: a clean, safe, calming and nurturing environment;

(2) Privacy: private treatment area for each client receiving a personal service;

(3) Business licenses: professional, licensed esthetician and therapists on staff;

(4) Products: professional spa products for which estheticians and therapists have received training in their use;

(5) Massages: Swedish, lymph drainage, reflexology, shiatsu, polarity, sports, deep tissue, deep muscle, or other types of massage related work;

(6) Body treatments (one or more on the menu): body packs and wraps, exfoliation, cellulite, body toning/contouring, waxing, homecare program (optional: electrical impulse body toning, heat treatments, Ayurveda treatments, laser hair removal, electrolysis, hand and foot care);

(7) Face: cleansing facial, homecare program (optional medical facial, electrical toning, laser hair removal, electrolysis, cosmetic, make-up consultation);

(8) Aromatherapy: personalized for body and/or face:

(a) One of the following:

1. Hydrotherapy; or
2. Steam and sauna.

(b) One of the following:

1. Nutritional counseling/weight management; or
2. Private trainer/yoga/meditation; or

3. Spa cuisine.

(9) Optional: hair: full-service salon, scalp treatments and hair packs, spa manicure and pedicure.

GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.

MASSAGE/THERAPEUTIC MASSAGE. The rubbing, stroking, kneading, tapping or rolling of the body of another with the hands for the exclusive purpose of physical fitness, relaxation, beautification, healthcare and for no other purpose, and performed in a manner consistent with the training, education and policies recognized by professional societies and standards to include, but not limited to the:

- (a) National Organization Board for Therapeutic Massage and Bodywork;
- (b) American Massage Therapy Association; or
- (c) Associated Massage and Bodywork Professionals.

MASSAGE THERAPIST PERSONAL SERVICES LICENSE. A personal services license issued by the City to a person who meets the appropriate requirements to practice or administer massage in the City.

MASSAGE THERAPY ESTABLISHMENT. Any premises at or in which therapeutic massage is performed.

MASSAGE THERAPIST. A person who practices or administers massage and has obtained the required personal services license to practice or administer massage in the City.

SAUNA. A steam bath or heat bathing room used for the purpose of bathing, relaxing or reducing agent utilizing steam or hot air as a cleaning, relaxing or reducing agent.

SAUNA ESTABLISHMENT LICENSE. A license issued by the City authorizing the commercial operation of a sauna on premises within the City.

308.03 DISTINCTION; EXEMPTIONS.

(A) The practice of massage as an activity licensed by the City is hereby declared to be distinct from the practice set forth below and those practices expressly excluded from

the provisions of this Chapter. Practices expressly excluded from this Chapter include:

- (1) The practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry; persons duly licensed in this State to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, nurses and health care workers who work solely under the direction of those persons;
- (2) Institutions such as hospitals, rest homes, nursing homes, or other institutions licensed under the provisions of Minnesota Statutes § 144.50 to § 144.69;
- (3) Beauty culturists and barbers who do not give or hold themselves out to give massage, as defined herein, other than is customarily given in those shops or places of business shall be exempt from the provisions of this chapter insofar as they hold an appropriate license issued by the State of Minnesota;
- (4) Athletic directors and trainers who perform massage in the course of any athletic program or event which is sponsored by a local unit of government, bona fide educational institution complying with State or local regulations, bona fide churches, synagogues or institutions of organized religion or bona fide, nonprofit civic organizations are expressly excluded from the requirements of this Chapter, provided that the performing of massage is subsidiary to the performing of other services and tasks.

308.15 BUSINESS LICENSES REQUIRED.

(A) No person shall engage in the business of operating a sauna, day spa, or massage therapy establishment either exclusively or in connection with any business enterprise without obtaining a license for that business establishment located in a commercial or mixed use zone and within a commercial enterprise as provided in this Chapter and shall only provide services on the premises of the licensed establishment. However, if the business owner is individually licensed pursuant to this Chapter, no separate business license shall be required.

(B) General requirements for obtaining licensing as provided in this Chapter.

- (1) Individuals who provide services regulated by this Chapter for the licensed establishment may only do so if they are individually licensed pursuant to this Chapter;
- (2) No establishment regulated by this Chapter may be granted a license or operate as a business unless it employs at least one person

who is individually licensed pursuant to this Chapter to perform services regulated by this Chapter.

(3) All licenses pursuant to this Chapter must participate in a background investigation and successful completion of same prior to receiving a license. All licensees must grant the City the unlimited right to perform criminal background investigations during the pendency and period of the license application and operation.

(C) Whenever any establishment ceases to be licensed as a sauna, day spa or massage therapy establishment, whether through the suspension, cancellation, revocation, nonrenewal, lack of employing of a licensed individual, or lapse of its license, its owners shall immediately remove from public view any sign or display which identified the establishment as a sauna, day spa, or massage therapy establishment or as offering sauna or massage services.

308.16 CONTENTS OF APPLICATION.

(A) Application for a sauna, day spa, or massage therapy establishment license shall be made only on the forms provided by the Administrator or designated staff.

(B) Four complete copies of the application shall be furnished to the office of the Administrator containing the following information:

(1) Address and legal description of the property to be used;

(2) The names, addresses and telephone numbers of the owner, lessee if any, and the operator or manager;

(3) The name, address and telephone number of three persons who may be called upon to attest to the applicant's, manager's or operator's character;

(4) Whether the applicant, manager or operator has ever been convicted or charged with a crime or offense other than a non-criminal traffic offense and, if so, provide information as to the time, place and nature of the crime and the disposition for each charged offense. This includes disclosure of charges that have been dismissed, expunged, acquitted, pardoned, or any type of stayed sentence or adjudication, or diversion program;

(5) The names and addresses of all creditors of the applicant, owner, lessee or manager insofar as and regarding credit

which has been extended for the purposes of constructing, equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the massage parlor or massage establishment;

(6) If the application is made on behalf of a corporation, joint business venture, partnership or any legally constituted business association, it shall submit, along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners, managers, members of the board of directors and creditors furnishing credit for the establishment, acquisition, maintenance and furnishing of the business, including the purchase or acquisition of any items of personal property for use in the operation;

(7) Complete accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon or in which the business is proposed to be located, in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise offering massage;

(8) The application shall also contain blueprints, diagrams, plans, layouts and the like showing the construction, revision, remodeling, alteration or additions of or to the premises, and specifically showing the layout, design and arrangement of the bathing and restroom facilities and the size and type of equipment and facilities to be used.

(9) Identify any prior or current professional license or license application from a jurisdiction other than the City. For each license or application supply the date of application, the nature of the license, whether the application was granted or denied, current status of the license or application, specify any adverse action (such as revocation, suspension, cancellation, or conditional provisions of practice of a professional license, or criminal charges) take against the license, licensee, any employee, agent, contractor, or other person associated with any license or license application from another jurisdiction;

(10) The name and identify of all persons practicing services for the applicant establishment that are regulated by this Chapter. The applicant must specify the individual(s) who will be licensed and certified by the City to conduct the regulated services and must always keep that information current by giving immediate notice to the local Police Department and City anytime that information changes. (Each of these individuals are subject to

individual licensing or personal services license requirements of this Chapter.);

(11) A general authorization for release of information signed by the applicant granting the local Police Department and/or City authorization to complete the required investigation and to reinvestigate during the pendency of the license period.

308.17 LICENSE FEE, INVESTIGATION FEE AND LICENSE YEAR.

(A) The investigation fee shall be set by Council, on an annual basis, along with the annual license fee. A license, unless revoked, is for the calendar year or a part thereof for which it has been issued. The license fee and fee for the initial investigation of the license application shall be paid when the application is filed. In the event that the application is denied or the license, once issued, is revoked, cancelled or surrendered, no part of the annual license fee and investigation fee shall be returned to the applicant unless by express action of the City Council.

(B) A separate license shall be obtained each year for each place of business. The licensee shall display the license in a prominent place in the licensed premises at all times. A license for the operation of a massage therapy establishment or sauna establishment is nontransferable.

308.18 GRANTING OR DENIAL OF LICENSES.

(A) License applications shall be reviewed by the Police Department and other departments as the City Council shall deem necessary.

(B) The review shall include any inspection of the premises covered by the application by the Building Inspector and Fire Department to determine whether the premises conforms to all applicable code requirements. Recommendations shall be made in writing to the Administrator. Thereafter, licenses shall be granted or denied by the City Council subject to the provisions of this chapter. The applicant may appeal to the City Council.

308.19 CONDITIONS GOVERNING ISSUANCE OF LICENSE.

(A) No sauna, day spa or massage therapy establishment license shall be issued if the applicant or any of its owners, lessees, managers, employees or agents is a person of bad repute;

(B) Sauna, day spa or massage therapy establishment licenses shall be issued only if the applicant and all of its owners, lessees, managers, employees and agents are free of convictions for

offenses which involve moral turpitude or which relate directly to the person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the licensed activity;

(C) Licenses shall be issued only to applicants who have not, within one year prior to the date of application, been denied licensing; or who have not within that period had their license revoked;

(D) Licenses shall be issued only to applicants who have completely answered all of the information requested in the application in an accurate and truthful manner subject to the penalty of criminal perjury, have paid the full license fee and have cooperated with the city in review of the application;

(E) A license shall not be granted to an applicant who is under the age of 18 years;

(F) Licenses may be granted only for locations with commercial or mixed use zones allowing similar activities;

(G) Licenses may be granted only to establishments which can meet the health, safety, sanitary and building code requirements of the City;

(H) A license shall not be granted if granting the license either would be inconsistent with the comprehensive development plan of the City, or would otherwise have a detrimental effect upon the property or properties in the vicinity; and

(I) Licensee must provide and maintain a current copy of its insurance policy with the City and that policy must maintain a provision that the insurer shall notify the City of any change to the policy, notice of nonpayment or notice of cancellation.

(J) Licensee must provide a general authorization for release of information signed by the applicant granting the local Police Department and/or City authorization to complete the required investigation and reinvestigate during the pendency of the license period.

308.20 CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

(A) Each licensed premises shall have separate restrooms for members of each sex or else have individual restrooms suited for use by one person at a time.

(B) Floors, walls and equipment in massage rooms, restrooms and bathrooms must be kept in a state of good repair and sanitary condition at all times. Linen and other materials shall be stored at least 12 inches off the floor.

(C) Massage tables and other equipment shall be kept in a sanitary condition including but not limited to the use of disposable or cloth sanitary protectors on tables and face cradles.

(D) Each licensed premises shall provide adequate refuse receptacles, which shall be emptied as often as required.

(E) (1) The doors to the individual massage rooms shall not be equipped with any locking device or else all interior doors shall be locked with a common keyed lock and a copy of that key shall be on deposit with the local Police Department.

(2) Main entrance doors to the premises shall be unlocked at all times during business hours and while anyone is present on the premises.

(F) Exterior signage is required and must prominently state that the establishment provides sauna, day spa or massage therapy services.

308.21 RESTRICTIONS AND REGULATIONS.

(A) No licensee shall employ any person as a massage therapist without first ensuring that the employee possesses a valid personal services license for the practice of massage from the City. The personal services license shall be prominently and openly displayed on the premises.

(B) The licensed premises may only be open for business or in operation anytime between the hours of 5:00 a.m. and 10:00 p.m. The actual hours when a licensee chooses to conduct business on the licensed premises must be on file with the local Police Department and the City as designated in their license application. These designated hours must be prominently posted on the exterior and interior of the licensed premises. Each licensee must so file their designated hours of operation. No person may engage in the practice of any service regulated by this Chapter outside of those designated hours. Clientele may be on the licensed premises for no more than fifteen minutes before or after the designated hours. No other person may be on the premises for more than one hour before or after the designated hours. Persons on the premises outside of the designated or authorized hours are subject to criminal prosecution for loitering or other crimes. Clientele, employees, agents and other persons on the premises must be so notified that they may be subject to criminal prosecution in this manner and it is incumbent upon the licensed establishment to so notify individuals by either posted notice or in writing. Failure to give notice to an individual shall not be a defense to this subdivision violation.

(C) The licensee, personal services license holder or any persons in his or her employ or agents or officers thereof, and any

and all persons with interest in the business shall comply with all applicable ordinances, regulations and laws of the City, the State and the United States Government.

(D) If the licensee is a partnership or corporation, the licensee shall designate a person to be manager and in responsible charge of the business. This person shall remain responsible for conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the local Police Department in writing of any change in manager, indicating the name, address and telephone number of the new manager and the effective date of the change.

(E) During any hours of operation or at any time a person is present on the licensed premises such establishment shall be open for inspection by City inspectors or local police officers. Inspection shall include:

- (1) Upon demand all persons employed or contracted by the licensed establishment or engaged in providing services shall identify themselves, giving their true and legal name, and proof of their identity.
- (2) All licenses, personal services licenses, insurance and financial records of the establishment and its employees, contractors or agents must be available for inspection during these times.
- (3) The physical premises may be inspected.

(F) Refusal to allow an inspection or to answer the request of City, local Police, Fire or other authority to being admitted into a licensed premises, identify employees, or unavailability of financial records shall be grounds for immediate suspension or revocation of all licenses or personal services licenses.

(G) Fees for all services shall be prominently posted in the reception area in a location available to all prospective customers.

308.30 MESSAGE PERSONAL SERVICES LICENSE REQUIRED.

No person shall perform message services within the City without a message personal services license as provided in this Chapter.

308.31 CONTENTS OF APPLICATION FOR PERSONAL SERVICES LICENSE.

(A) An application for a message personal services license shall be made only on forms provided by the City.

(B) The application shall contain the following information together with any other information the City may require:

- (1) Evidence of applicant's practical qualifications to practice massage;
- (2) The names and addresses of three persons, who may be referred to as to the applicant's character;
- (3) Whether the applicant has ever been convicted or charged with a crime or offense other than a non-criminal traffic or misdemeanor offenses and if so, information as to the time, place and nature of the crime, and the disposition for each charged offense. This includes disclosure of charges that have been dismissed, expunged, acquitted, pardoned, or any type of stayed sentence or adjudication, or diversion program;
- (5) A general authorization for release of information signed by the applicant granting the local Police Department and/or City authorization to complete the required initial background investigation and to reinvestigate during the pendency of the license period.

308.32 FEE, INVESTIGATION FEE AND YEAR.

The initial background investigation fee shall be determined by City Council on an annual basis along with the annual personal services license fee. The personal services license year shall be the calendar year and a personal services license shall be valid for the remainder of the calendar year in which it is issued. The personal services license fee and the initial background fee for investigation for the personal services license shall be paid when the application is filed. In the event that the application is denied or that the personal services license, once issued, is revoked, cancelled or surrendered, no part of the annual personal services license fee and investigation fee for the issuance of a personal services license shall be returned to the applicant unless by express action of the City Council. A separate personal services license shall be obtained each year. The personal services license holder shall display the personal services license in a prominent place in the licensed premises at all times. A personal services license permitting the holder thereof to practice massage is nontransferable.

308.33 INVESTIGATION OF APPLICATION.

(A) Personal services license applications shall be reviewed by the local Police Department, which shall furnish written recommendations to the City Administrator.

(B) Thereafter personal services licenses shall be granted or denied by the City Administrator subject to the provisions of this Chapter.

(C) The applicant may appeal to the City Council.

308.34 CONDITIONS GOVERNING ISSUANCE OF PERSONAL SERVICES LICENSE.

(A) Certificates shall be issued only to persons who have received and can furnish proof of receiving a qualifying amount of education. These minimum requirements are any of the following:

(1) Hold an associates degree or greater level degree in a field of nursing or physical therapy from a State-accredited, post-secondary educational institution, and hold a current license, in good standing, from the State of Minnesota to practice nursing or physical therapy;

(2) Receive no less than 500 hours of certified therapeutic massage training from an institution recognized and accredited by a State within the USA or U.S. National professional therapeutic massage organization, to include, but not limited to the:

(a) American Massage Therapy Association, or

(b) Associated Massage and Bodywork Professionals;
or

(3) Successfully pass the national examination for therapeutic massage within the year prior to application as offered by the U.S. National Organization Board for Therapeutic Massage and Bodywork.

(4) Have been previously licensed by the City and provide documentation that shows an ongoing effort to maintain or improve their massage therapy skills.

(B) Personal services licenses shall be issued only to persons free of convictions for offenses which involve moral turpitude or which relate directly to the person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the occupation.

(C) Personal services licenses shall not be issued to persons who have, within one year prior to the date of application, been

denied certification; or who have had his or her personal services license revoked or surrendered in or by any political subdivision, a municipality or by the State.

(D) Personal services licenses shall be issued only to applicants who have completely answered all of the information requested in the application in an accurate and truthful manner subject to the penalty of criminal perjury, have paid the full license fee and have cooperated with the City in review of the application;

308.35 RESTRICTIONS AND REGULATIONS.

(A) During any hours of operation or at anytime a person is present on the licensed premises, such establishment shall be open for inspection by City inspectors or local police officers. Upon demand all persons employed by the licensed establishment or engaged in providing services shall identify themselves, giving their true, legal name and proof of their identity. The personal services license issued by the City, insurance and financial records of the establishment must be available for inspection during these times.

(B) Any person acting as a massage therapist shall have his or her personal services license displayed in a prominent place at his or her place of employment, and upon demand by any local police officer or other authorized officer or agent of the City, any person engaged in practicing massage shall identify himself or herself giving his or her true, legal name and proof of their identity.

(C) Any person practicing massage within the City shall initially advise the City of his or her address, telephone number and shall further advise the City of any changes in address or telephone number within ten days of the change.

(D) Any person practicing massage within the City may do so only at premises which are licensed for the conduct of the business as herein provided; and further, any person practicing massage shall inform the City of any changes in employment or the location of his or her employment within the City within seven days after the change.

(E) Every person to whom a massage personal services license is issued, shall appear personally at the local Police Department to receive delivery of the personal services license and upon such appearance shall be photographed for identification purposes. One copy of the photograph shall be permanently affixed to the personal services license and a second copy thereof shall be kept in the files of the local Police Department.

(F) Fees for all services shall be prominently posted in the reception area in a location available to all prospective customers.

308.36 HEALTH AND DISEASE CONTROL.

No person while afflicted with any disease in a communicable form or while a carrier of disease or wounds, sores or any acute respiratory infection shall work in, be permitted by an employer to work in, or use the services regulated in this Chapter unless universal precautions are taken to prevent the spread of the disease or condition and to protect the general health and safety of others. Massage therapists and establishments licensed pursuant to this Chapter must use best practices and use appropriate universal precautions to prevent the spread or transmission of communicable disease.

308.37 REVOCATION, SUSPENSION OR NONRENEWAL OF BUSINESS AND/OR PERSONAL SERVICES LICENSE.

(A) The massage business and/or personal services license may be denied, revoked, suspended or not renewed by the City Council by showing that the applicant, licensee, its owners, managers, employees, agents or any other interested parties, as enumerated in contents of application section of this Chapter have engaged in any of the following conduct:

- (1) Fraud, deception or misrepresentation in connection with the securing of the license;
- (2) Conviction of a felony or gross misdemeanor which relate directly to the person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the occupation;
- (3) Engaging in conduct involving moral turpitude by permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers or employees in engaging in conduct involving moral turpitude;
- (4) Failure to fully comply with any requirements of the City code regarding the sanitary and safety conditions, zoning requirements, building code requirements or ordinances, the violation of which involves moral turpitude, or failure to comply fully with any requirements of this Chapter;
- (5) Conviction of an offense involving moral turpitude by any court of competent jurisdiction;

- (6) Engaging in any felony or gross misdemeanor conduct which would constitute grounds for refusal to issue a license or massage personal services license herein;
- (7) Failing to allow City Officials or local Police Officers access to the license premises for inspection.

(B) Upon the report of any violation of this Chapter the City Administrator may immediately suspend any license or personal services license granted pursuant to this Chapter. Such suspensions shall be temporary and are subject to the appeal provisions as set forth in this Chapter, except that an immediate suspension shall allow the aggrieved party the right of appeal no later than ten days after a temporary suspension is effective if requested within ten days. If no timely request is made the process of 308.50 shall apply.

308.50 APPEALS.

(A) The business license or personal services license holder has the right to appeal any adverse action set forth in this Chapter. The scope of such an appeal is as follows:

- (1) The business licenses or personal services license holder may appeal the denial, suspension, revocation or nonrenewal of a license or personal services license to the City Council within thirty days of this event. If no appeal is filed within this period, the event is affirmed.
- (2) Except as otherwise set forth in this Chapter, the Council shall consider the appeal at the next regularly scheduled Council meeting on or after 30 days from service of the notice of appeal on the Administrator.
- (3) The business license or personal services license holder may present evidence and argument at the hearing of the appeal.

(B) After considering the evidence at the hearing of the appeal, the Council may:

- (1) Affirm the denial, revocation, suspension or nonrenewal;
- (2) Grant the license application, reinstate the revocation, suspension or nonrenewal; or

(3) Where appropriate, for violations of the conditions set forth in this Chapter the Council may:

(a) Impose a civil fine no greater than \$3,000.00; and/or

(b) Impose, in its sole discretion, appropriate additional terms, conditions and stipulations upon the licensee or personal services license holder before granting a license application, or reinstating a revocation, suspension or nonrenewal.

308.51 LIABILITY FOR CRIMES OF ANOTHER.

Every person who commits or attempts to commit, conspires to commit or aids and abets in the commission of any act constituting a violation of this Chapter, or any act which constitutes an omission and therefore a violation of this Chapter, whether individually or in connection with one or more persons or as a principal, agent or accessory, shall be guilty of the offense. Every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any of the provisions of this Chapter is likewise guilty of the offense.

308.99 PENALTY.

Whoever does any act forbidden by this Chapter or omits or fails to do any act required by this Chapter shall be guilty of a misdemeanor.

Section 310 - COIN-OPERATED AMUSEMENT DEVICES

310.01 Definitions. Unless the context otherwise indicates, the following terms have the meanings stated:

Subd. 1 Coin-operated Amusement Device. Any amusement machine or device operated by means of the insertion of a coin, token, or similar object, for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines in which gaming or amusement features are not incorporated.

Subd. 2 Operator. Any person who sets up for operation by another or leases or distributes for the purpose of operation by another, any device as herein defined, whether

such setting up for operation, leasing or distribution be for a fixed charge or rental, or on the basis of a division of the income derived from such device, or otherwise.

Subd. 3 Proprietor. Any person who as the owner, lessee or proprietor has under his or her control any establishment, place or premises in or at which such device is placed or kept for use or play, or on exhibition for the purpose of use or play.

310.02 License Required. No person shall engage in the business of an operator or proprietor of coin-operated amusement devices as the terms are herein defined, without first having obtained the proper license therefor. Applications for such licenses shall be made in conformity with section 350.

310.03 Increasing Number of Devices. In case a proprietor license under the provisions of this Section desires, after the expiration of any portion of any license per year, to increase the number of devices to be used or played, or exhibited for use or play in their establishment, the proprietor shall surrender his or her license to the City Clerk who shall issue a new license showing the number of devices licensed thereunder, after payment of the proper license fee.

310.04 Evidence of Ownership to be Filed with Clerk. Any proprietor who owns such device or devices at the time this article becomes effective shall file with the City Clerk evidence of such ownership prior to the issuance of a license; and any proprietor purchasing a device or devices after the effective date of this article shall file with the City Clerk evidence of ownership thereof before exhibiting or placing said device or devices for use or play.

310.05 Insurance. No license shall be issued until the applicant has placed on file with the City Clerk, a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with the applicant's business. Such insurance shall be in the minimum amount of \$100,000 for each person, and \$200,000 for reach accident.

Section 315 - BILLIARD HALLS, POOL HALLS, BOWLING ALLEYS & SKATING RINKS

315.01 License Required. It shall be unlawful for any person to own or operate any billiard hall, pool hall, bowling alley or skating rink in the City without first having obtained a license therefor as is hereby required.

315.02 Application - Investigation. Applications for such licenses shall be made in conformance with the provisions of

Section 350 relating to licenses and shall specify the location of the proposed billiard hall, pool hall, bowling alley or skating rink and each person owning or operating the same. No such license shall be issued to a person who is not of good, moral character, nor to a corporation or organization which is not represented in the City by a person of good moral character.

315.03 Premises. It shall be unlawful to conduct a public billiard hall, pool hall, bowling alley or skating rink in any hall or building which is not equipped with sufficient and adequate exits.

315.04 Conduct. It shall be unlawful to permit or indulge in any improper conduct or excessive noise at any public billiard hall, pool hall, bowling alley or skating rink.

315.05 Insurance. No license shall be issued until the applicant has placed on file with the City Clerk, a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with the applicant's business. Such insurance shall be in the minimum amount of \$100,000 for each person, and \$300,000 for each accident.

Section 320 - Animals

320.01. DOGS AND OTHER ANIMALS.

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

Animal means all animals, whether wild or domestic, including but not limited to dogs and cats.

Animal control authority means the city, acting through its employees or officials, the police department, or any person or organization appointed by city council for the purpose of enforcing this chapter.

Animal control officer means all employees of the police and public works departments, or any other person or employee of an organization appointed by the city council for purposes of enforcing this chapter.

Animal shelter means any premises designated by the city council for the purpose of impounding or caring for animals held under the authority of this chapter.

At large means an animal off the owner's premises and not under the control of the owner, a member of the owner's immediate family, or person in control of the animal either by leash, cord or chain, or similar physical restraint.

Farm animals shall mean those animals commonly associated with a farm, ranch or stable or performing work in an agricultural setting. These animals shall include but are not limited to chickens, ducks, geese, horses, cows, sheep, goats, pigs (including Vietnamese pot-bellied pigs), and llamas.

Kennel means any place where four or more dogs over the age of six months are kept, owned, boarded, bred or offered for sale.

Owner means a person who harbors, feeds, boards, possesses, keeps or has custody of an animal.

Pet shop means any establishment, whether non-profit or for profit, engaged in the business of breeding, buying, selling or boarding animals of any species.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

B. *Animal licensing/Identification.* Animals that are permitted in the city are not required to obtain a license, however all dogs over the age of six months shall have an identification tag affixed to a collar which indicates the owner name, address and a contact phone number.

C. *Licensing Pet Shops & Kennels.* Pet shops and kennels shall require a license from the City. It is unlawful to operate a kennel in any residentially zoned district. Pet Shops and kennels are permitted in certain zoning district but require a conditional use permit.

D. *License validity; fees.* Licenses shall be issued as follows:

1. All fees will be established from time to time by ordinance or resolution of the city council. Licenses may be issued at any time during a license period, provided that the fees set forth in this section shall be prorated on the basis of the number of months remaining in any such period. However, the minimum fee shall be no less than the licensing fee for a six month period. For this purpose fifteen days or more shall be construed a full month. Application for license shall be filed on the appropriate forms provided by the city.

2. Kennel licenses. No kennel license may be issued or renewed unless the applicant has a valid conditional use permit for the facility.

3. The commencement and ending period of licenses shall be set out in the ordinance or resolution that establishes fees for such license. Licenses shall be valid for a period of two years.

E. *Unlawful acts.*

1. It is unlawful for any animal to defecate on public property or the private property of another, without the owner or person in control of the animal immediately removing the excrement and disposing of it in a sanitary manner. The owner or person in control of the animal must have a bag or other receptacle for the collection and proper disposal of the animal's excrement in their possession.

2. It is unlawful for any animal to be in or upon any city park, street, sidewalk or trail property unless the owner or person in control of the animal restrains it by a leash or the animal is housed in a portable crate or kennel. However, in Aspen Park animals are not required to be restrained by a leash or housed in a crate or kennel if the animal effectively responds to voice command.

3. It is unlawful for any animal to be at large. An owner or person in control of the animal is responsible under this chapter for any animal that is at large.

4. It is unlawful to possess more than three dogs, three cats, or three of any other type of animal or in combination a maximum of four animals over the age of six months to be kept on any property in the city, except in a location where a licensed pet shop or kennel is allowed or other exceptions as specifically set forth in this chapter.

5. It shall be unlawful for any animal to habitually or frequently bark or cry; to frequent school grounds; to chase vehicles; to molest or disturb any person if such person is not on the property of the owner or custodian of such animal; or to molest, defile or destroy any property, public or private. It shall be the obligation and responsibility of the owner or custodian of any animal in the city to prevent such animal from committing any act which constitutes a nuisance.

6. It is unlawful for the owner or person in control of the animal to permit such unsanitary conditions on a premises that the maintenance or keeping of the animal creates a danger to the public health, safety, or welfare or odors are an annoyance to the public in the vicinity. Failure on the part of the owner or custodian to prevent their animal from committing an act of nuisance shall be a violation of this section.

Exceptions. The provisions of 1 and 2 do not apply to a guide dog accompanying a blind person, a service dog accompanying a disabled person, or a dog engaged in police or rescue activity.

F. Seizure of animals.

1. The Animal Control Officer may seize animals for reasons specified in this chapter. The Animal Control Officer shall immediately seize any potentially dangerous animal or dangerous animal if:

a. The animal is not validly registered, the owner does not secure proper liability coverage, or the animal is not sterilized within 14 days after the owner is provided notice of the animal's designation; or

b. an animal is not otherwise maintained in a manner consistent with an order of the Animal Control Officer.

2. If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

G. Impoundment; notice to owner; disposition of unclaimed animals.

Unrestrained animals may be taken by any officer and impounded in an animal shelter. Impounded animals shall be kept for not less than five days unless reclaimed by their owners. If the owner can be identified by registration, identification tag, or by other means, the Animal Control Officer shall immediately, upon impoundment, notify the owner by telephone, mail or personal contact of such impoundment. Animals not claimed by their owners within five days may be humanely disposed of by any person or agency delegated by the city council to exercise such authority. Any animal which is in the city that has been critically injured may be immediately and humanely euthanized by an Animal Control Officer or by a veterinarian.

H. Reclamation; pound fees. Impounded animals may be reclaimed by their owners after payment is made to the city of a pound fee, in addition to boarding and other costs. All fees in the city will be established from time to time by ordinance or resolution of the city council, or such expenses as otherwise set by market rates where establishing fees are not practical.

I. Alternative to impoundment; proceedings against owner.

Notwithstanding other provisions of this section, if an animal is found at large and its owner can be identified and located, such animal need not be impounded but may, instead, be taken to the owner. In such case, however, proceedings may be taken against the owner for violation of this chapter.

J. Female animals in heat. Every female animal in heat shall be confined in a building or other secure enclosure, in such a manner that the female animal cannot come into contact with another animal, except for planned breeding.

K. Care of and cruelty to animals. No person shall fail to provide any animal with sufficient food and water, proper shelter and veterinary care when needed. No person shall beat, cruelly treat, torment or otherwise abuse any animal or cause or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans. No person shall abandon an animal.

L. Quarantine of biting animals. Any animal which bites a person shall be quarantined for such time as may be directed by the city. During quarantine the animal shall be securely confined. At the discretion of the police chief the quarantine may be on the premises of the owner. However, if the police chief requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

M. Destruction of animals suspected of being rabid. No person shall kill any animal suspected of being rabid except after the animal has been placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian diagnoses rabies in an animal in quarantine, then the animal shall be humanely euthanized.

N. Enforcement of section. The city council may from time to time appoint such persons as may be necessary to assist in the enforcement of this section. Such persons shall have limited police powers only necessary for enforcement of this section, and no person shall interfere or obstruct in the exercise of such powers. [Such person may be appointed as a Reserve Officer to the police department for the purpose of carrying out the duties set forth in this section.]

O. Interference with Animal Control Officer or police officer. No person shall interfere with, hinder or molest any Animal Control Officer or police officer in the performance of any duty, or seek to release any animal in the custody of the Animal Control Officer or police officer except as provided in this chapter.

320.02. - WILD OR DANGEROUS ANIMALS.

A. Prohibited species. No person shall harbor, maintain or control any wild, dangerous, or non-domesticated animal within the city. Such Animals shall include, but are not limited to, the following animals:

1. Any animal which possession is prohibited by state or federal law.

2. Any non-domesticated animal or species, including but not limited to the following animals:

- a. Any non-human member of the family Primate (i.e., monkey).
- b. Any cat of the family Felidae (i.e., tiger, bobcat), except domesticated cats known as *Felis catus*.
- c. Any canine of the family Canidae (i.e., wolf, coyote), except domesticated dogs known as *Canis lupus familiaris*.
- d. Any canine resulting from crossbreeding with a coyote or wolf.
- e. Any snake of the family Viperidae (i.e., rattlesnake, cobra), or any snake of the family Boidae (i.e., boa

- constrictor, python).
- f. Any carnivorous reptile (i.e, alligator, crocodile, gila monster).
- g. Any poisonous or stinging insect (i.e., scorpion).
- h. Any skunk, whether captured in the wild, domestically raised, descended or not descended, vaccinated against rabies or not vaccinated against rabies.
- i. Any raccoon, opossum, porcupine or badger.
- j. Any bear.

3. *Other animals.* Any other animal which by its size, vicious nature or other characteristics which are inherently dangerous to human beings; any other animal which is commonly considered wild and not domesticated; or that because of its odors, cries or similar characteristics is not compatible with urban living.

4. Any animal, including dogs known as *Canis lupus familiaris*, that meets the definition of a dangerous animal contained in this chapter and is not otherwise permitted by this chapter.

B. Licensing Honey Bees. Notwithstanding other provisions of this chapter, a person may keep honey bee colonies on any premises after first obtaining a license as provided in this subsection. No license shall be issued except in compliance with this section.

- 1. Lot size shall be a minimum of one-half acre,
- 2. No more than two honey bee colonies shall be allowed,
- 3. Hives shall be setback from property lines a minimum of 25 feet,
- 4. Applicant must document at least 16 hours of training in beekeeping, and
- 5. The colony shall be maintained in good order and not be a nuisance to any member of the public.

C. Compliance with section. Anyone keeping or maintaining any animal prohibited by this chapter as of January 1, 2012, has 30 days in which to comply with the provisions of this section. Extensions beyond 30 days may be granted by the city council in its sole discretion for animals that have been previously permitted by the city.

320.03 FARM ANIMALS

A. Farm animals shall only be kept in an agricultural district of the city or on a residential lot of at least ten acres in size, and provided that no animal shelter shall be within 300 feet of an adjoining piece of property. Animal feedlots as defined in MN Rule 7020.03 are prohibited.

B. Backyard Chickens. Notwithstanding other provisions of this chapter, a person may keep up to four (4) female chickens on a parcel that they own that is less than ten acres in size,

provided that the owner has a lot with a minimum of 10,000 square feet, and obtains a backyard chicken permit from the City. No permit shall be issued except in compliance with this section.

1. Definitions

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

b. Coop means the structure for the keeping or housing of chickens permitted by the ordinance.

c. Hen means a female chicken.

d. Rooster means a male chicken.

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

2. Any person desiring to obtain a backyard chicken permit under this subdivision must make a written application to the City Clerk on a form provided by the City and pay an application fee. Fees to be charged for the permit to keep chickens shall be set by City Council on the fee schedule. The application must include a scaled diagram or site plan that shows the location of the chicken coop including the distance of the coop from adjoining structures and property lines and the coop's dimensions. If the applicant's lot is less than 15,000 square feet, the applicant must secure permission from at least 70 percent of the owners of property within 150 feet of the applicants parcel.

3. All initial permits will expire on December 31st of the following year after their issuance unless sooner revoked. Renewal permits shall expire on December 31st of the second year following their issuance unless sooner revoked.

4. The City may revoke a permit for failure to comply with provisions of this section or any of the permit's conditions.

5. The city may inspect the premises for which a permit has been granted in order to ensure compliance with this subdivision. If the city is not able to obtain the occupant's consent to enter the property, it may seek an administrative search warrant or revoke the permit.

6. All chickens must be kept in an enclosed coop or enclosed run. The chicken's living area must be maintained in a clean and sanitary condition, devoid of all rodents and vermin and free from objectionable odors. Waste must be disposed of on a weekly basis. Grains and feed must be stored in rodent and raccoon-proof containers inside of a structure. The enclosed coop must be built to protect the chickens from extreme heat or cold. The enclosed coop must be maintained in good condition and be sufficient in strength and size to allow the chickens to move about, but also able to prevent escape. The enclosed coop must have a minimum size of four square feet per animal and must not exceed forty (40) square feet in total, with a maximum height of twelve (12) feet. The enclosed coop must be

located in the rear yard and set back at least 25-feet from any residential dwelling and at least 15-feet from all property lines and may not be located in a utility or drainage easement.

7. Enclosed runs shall be attached to the coop. Fencing shall be adequate to keep chickens in and predators out. It shall be a maximum of 40 square feet and set back at least 25 feet from all residential structures and 15 feet from the property line.
8. Chickens must not be raised or kept for the purpose of fighting. No permit will be granted by the city to keep any chickens within a dwelling or garage, nor on a property which contains two or more dwelling units. No outdoor butchering of chickens is allowed. No roosters are allowed.
9. No person shall allow any chicken under his or her ownership or control to violate Chapter 7, Nuisances.
10. Persons that intend to no longer keep chickens on their premises shall notify the City. The coop must be removed upon expiration of the permit.
11. Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within forty-eight (48) to seventy-two (72) hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.

320.04 DISEASED ANIMALS-DISEASE CONTROL.

A. Keeping of diseased animal. No person shall possess an animal which is diseased such that it is a danger to the health and safety of other persons. Possession of a diseased animal includes but is not limited to personal possession or possession on one's premises. Only a licensed veterinarian may harbor a diseased animal for either medical or treatment purposes.

B. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined as directed by an Animal Control Officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be euthanized and shall properly dispose of the remains. Reasonable efforts will be made to notify the owner or keeper of the animal prior to the euthanasia. The owner will be liable to pay the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

C. Release. If the animal, upon examination, is not found to be diseased within the meaning of this section, the animal shall be released to the owner upon payment of the costs associated with the examination.

D. Vaccination of animals. No person shall keep any animal over six months of age within the city limits without having obtained a certificate from a qualified veterinarian showing the animal has a current rabies vaccination. The owner may affix a permanent tag to the collar of a dog or cat, which tag shall show the expiration date of the rabies vaccination. The owner may choose not to put a rabies tag on a dog or cat but must be able to prove the animal has a current rabies vaccination by presenting a rabies certificate.

320.05-320.09 RESERVED

SECTION: 320.10 Dangerous and Potentially Dangerous Animals.

A. Definitions.

1. Dangerous Animal. An animal which has:

a. Without provocation by a victim, inflicted substantial bodily harm on a human being on public or private property;

b. Killed a domestic animal without provocation while off the owner's property; or

c. Been found to be potentially dangerous, and after the owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.

2. Potentially Dangerous Animal. An animal which has:

a. When unprovoked by a victim, bites human or domestic animal while on public or private property.

b. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or

c. Has the known propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

3. Proper Enclosure. Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exit of its own volition or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance.

4. Provocation. "Provocation" or "provoked" means an act that an adult could reasonably expect may cause an animal to attack or bite. No act by a child that causes an animal attack or bite is provocation under this ordinance.

B. Designation as Potentially Dangerous Animal.

The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the animal has committed an act meeting the definition of a "potentially dangerous animal."

1. When an animal is declared potentially dangerous, the Animal Control Officer shall order the immediate imposition of the following conditions:
 - a. The owner of an animal designated as potentially dangerous must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Officer. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Officer. In either case, all costs related to purchase and implantation of the microchip must be borne by the animal's owner.
 - b. The owner must provide and maintain a proper enclosure for the potentially dangerous animal.
 - c. If the animal is a dog and is outside the proper enclosure the dog must be muzzled or controlled by a head halter and restrained by a substantial chain or leash (not to exceed six feet in length), and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration. If a head halter is chosen as an alternative, the owner must prior to its use provide evidence to the City that a veterinarian or a certified dog trainer have fitted the head halter and trained the owner on its use.
 - d. In addition, the owner of an animal declared potentially dangerous shall annually register the animal with the City and be issued a Certificate of Registration stating that the animal is potentially dangerous. The owner shall pay the City the current registration fee as established by ordinance or resolution.
 - e. The City may order any additional conditions which it finds just and appropriate to protect public safety and welfare from the dangerous nature of the animal.

C. Designation as Dangerous Animal. The Animal Control Officer shall designate any animal as a dangerous animal upon receiving evidence that the animal has, committed an act meeting the definition of a "dangerous animal."

1. **Authority to Order Destruction.** The Animal Control Officer, upon determining that an animal is dangerous hereunder, is authorized to order the destruction of animal. An order for destruction can only occur if one or more of the following acts occurred:

- a. The animal is dangerous as demonstrated by vicious attack, an unprovoked attack, an attack without warning, attack with multiple bites, or multiple attacks, or where more than one animal participated in the attack; or
- b. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

2. **Prior to Destruction.** The dog owner if known shall be notified by in person delivery or mail of their right to appeal within seven (7) days the City's decision to destroy the animal.

3. **Dangerous Animal Registration Requirements.** If the Animal Control Officer does not order the destruction of an animal that has been declared dangerous, an order for the following conditions shall be immediately imposed:

- a. That the owner provides and maintains a proper enclosure for the dangerous animal;
- b. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children that there is a dangerous animal on the property;
- c. Provide and show proof annually of public liability insurance in the minimum amount of \$300,000.00;
- d. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled, restrained by a substantial chain or leash (not to exceed six feet in length), and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

- e. The animal must have an easily identifiable, standardized tag, identifying the animal as dangerous, affixed to its collar at all times;
- f. The owner of an animal designated as dangerous must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Officer. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Officer. In either case, all costs related to purchase and implantation of the microchip must be borne by the animal's owner;
- g. An owner of a dangerous animal must renew the registration of the animal annually until the animal is deceased. If the animal is removed from the jurisdiction, it must be registered as a dangerous animal in its new jurisdiction;
- h. An owner of a dangerous animal shall sterilize the animal at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the animal and have it sterilized at the owner's expense; and
- i. The City may order any additional conditions which it finds just and appropriate to protect public safety and welfare from the dangerous nature of the animal.

D. Procedure For Animal Designation. The Animal Control Officer, after having made findings, designations, or issued orders under this ordinance shall proceed as follows.

1. The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person of any findings, designations or orders relating to the animal. This notice shall contain a statement of reasons describing the facts used to make a designation or order by the Animal Control Officer. The notice shall also describe the owner's right of appeal to the City. Written notice shall be sent by mail or hand delivered. If no owner can be ascertained, the animal shall be destroyed.
2. An owner shall be given fourteen (14) days to appeal a designation or order by requesting a hearing before the City Council or designated hearing officer. If no appeal is filed within the requisite time period, the designation or order issued against the animal will stand and shall remain in effect, unless the owner applies for a review as provided in 320.10 K.

3. If an owner timely files an appeal from a designation or order of the Animal Control Officer, the hearing shall be held before the City Council. The City Council may delegate this hearing to be heard before a designated hearing officer. The records of the Animal Control Officer or any government agency shall be admissible for consideration during the hearing without further foundation. A copy of these records shall be made available to the owner at least one week before the hearing. The City shall notify any victim of an attack by the animal of the hearing date and time.
4. During the hearing, a finding by the Animal Control Officer shall be presumed correct but is subject to review. After considering the evidence and statements of the parties, the City Council or hearing officer shall make findings of fact on issues properly before it on appeal, and may sustain, modify or rescind a designation or order made by the Animal Control Officer.
5. Where appropriate to effectuate an order of the Animal Control Officer appealed to the City, the City Council or hearing officer may order the Animal Control Officer to immediately take the animal into custody pending the outcome of the appeal. After appeal, if the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer, and at the owners request and expense, destruction shall be stayed for fourteen days.
6. No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.
7. The animal owner shall bear all of the costs of these proceedings, board and care for an animal taken into custody, and other related expenses incurred by the City.

E. Exemptions to Animal Designation. Animals may not be declared potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person:

1. Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the animal;
2. Who was provoking, tormenting, abusing, or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal; or
3. Who was committing or attempting to commit a crime.

F. Rental Property - Disclosure Required. A person who owns a potentially dangerous animal or a dangerous animal, and will reside

in rental property must disclose whether such an animal will be kept on the premises for any period of time. The animal owner must notify the rental property owner that a designated animal will be kept on the premises and shall also disclose all conditions imposed by the City related to that designation. This disclosure must occur immediately upon an animal designation imposed by the City, or before the animal owner enters into a lease or begins residing at such a premises. Proof of this disclosure must occur before the owner's animal registration with the City will be granted or renewed.

G. *Stopping an Attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to a victim.

H. *Notification of New Address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal dies or is to be relocated from its current address or given or sold to another person. The notification shall be given in writing within 30 days of the death or at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address and the name of the new owner, if any.

I. *Animals Transported Into The City.* No person shall bring into the City an animal which has previously been declared by another jurisdiction to be dangerous. No person shall bring into the City an animal which has previously been declared by another jurisdiction to be potentially dangerous, without first securing a permit from the City to register the animal. The City may seize and destroy, at the owner's expense, any animal brought into the City in violation of this provision.

J. *Attack By An Animal.* It shall be deemed an unlawful act by any animal owner in the event their animal inflicts or attempts to inflict bodily injury upon any person or other animal. The owner is held strictly liable for the actions of its animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home.

K. *Dangerous Animal or Potentially Dangerous Animal, Designation Review.* In accordance with State law, beginning six (6) months after an animal is declared a potentially dangerous animal or dangerous animal; an owner may annually request that the animal control authority review the designation. The owner must provide evidence that the animal's behavior has changed due to the animal's age, neutering, environment, completion of obedience training that

includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the animal's behavior has changed, the authority may rescind designation or modify the conditions of an order imposing conditions related to a designation. The request shall be considered in the same manner as an appeal from designation of the Animal Control Officer.

320.11 SUMMARY DESTRUCTION.

Whenever an Animal Control Officer or police officer determines that any animal presents an immediate threat to the safety of any person, after making reasonable attempt to impound the animal, the officer is hereby authorized to destroy the animal in the interests of public safety.

320.12-320.89 RESERVED

320.90 Civil Actions. In addition to the other remedies and penalties provided in this chapter, city officials, after approval of the city council, are authorized to file appropriate civil actions for a temporary restraining order, temporary injunction or permanent injunction against any person violating this section. These civil remedies and penalties do not bar criminal prosecution.

320.91 Applicability. Nothing in this chapter is intended to supersede state law, or the specific requirements found in Minnesota Chapter 347.50 to 347.56. It is the intention of the city to more precisely regulate dangerous animals.

320.92 Penalty for Violation. Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor, with two exceptions:

- a. License violations shall be charged as a petty misdemeanor if the violator has no similar offenses in the preceding three months.
- b. Provisions of this chapter governing potential dangerous animals and dangerous animals shall be guilty of a misdemeanor unless otherwise specified as a gross misdemeanor under State law.

320.93 Continuing Violations. Each day on which the violation continues shall constitute a separate violation.

SECTION 325 - LAWN FERTILIZER APPLICATION REGULATIONS

325.01 Purpose. Data indicates that lake water quality may be maintained and improved if the City is able to regulate the amount of lawn fertilizer and other chemicals entering the lakes as a result of storm after runoff or other causes. The purpose of this Section is to define regulations which will aid the City in

maintaining and improving lake resources which are enjoyed by its residents and users.

325.02 Regulations for Commercial Lawn Fertilizer Applicators.

Subd. 1 License Required. No person, firm, corporation or franchise shall engage in the business of commercial lawn fertilizer applicator within the City of Circle Pines unless a license has been obtained from the City as provided in this Section.

Subd. 2 License Application Procedure. Applications for a commercial lawn fertilizer applicator license for a calendar year shall be submitted to the City at least 30 days prior to the initial lawn fertilizer application each year within the City. The application shall consist of the following:

a. Application Form. Application forms shall be provided by the City and shall include the following information:

1. Name, address and telephone number of applicant and any individuals authorized to represent the applicant.
2. Description of lawn fertilizer formula proposed to be applied on lawns within the City of Circle Pines.
3. A time schedule for application of lawn fertilizer and identification of weather conditions acceptable for lawn fertilizer application.

b. Fertilizer Sample. A sample of lawn fertilizer shall be license, and thereafter, at least 30 days before fertilizer composition changes are implemented. A sample submittal can be replaced by a chemical analysis certified by an independent testing laboratory.

c. License Fee. The annual license fee for a commercial lawn fertilizer applicator shall be as set forth from time to time in Section 350 of this Code. Commercial applicators shall also be a City-licensed general contractor.

Subd. 3 Conditions of License. Commercial lawn fertilizer applicator licenses shall be issued subject to the following conditions which shall be specified on the license form:

a. Random Sampling. Commercial lawn fertilizer applicators shall permit the City to sample any commercial lawn fertilizer application to be applied within the City at any time after issuance of the initial license.

b. Possession of License. The commercial lawn fertilizer application license or a copy thereof shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer applications within the City.

c. State Regulations. Licensee shall comply with the provisions of the Minnesota Fertilizer and Soil Conditioner Law as contained in Minnesota Statutes Section 17.711 through and including 17.729 and amendments thereto.

325.03 Regulations for Property Owners.

Subd. 1 Random Sampling. Upon the City's request, the property owner shall provide the City with samples of lawn fertilizer to be applied by property owners. The quantity of the sample shall be large enough to permit laboratory testing.

Subd. 2 Use on Impervious Surfaces. Property owners shall not deposit leaves or other vegetative materials on impervious surfaces or within storm water drainage systems or natural drainage ways.

Subd. 3 Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures, or areas which have been improved by landscaping, all land areas shall be covered by plants or vegetative growth.

325.04 General Regulations.

Subd. 1 Time of Application. Lawn fertilizer applications shall not be applied when the ground is frozen or between November 15th and April 15th of the succeeding year.

Subd. 2 Sample Analysis Cost. The cost of analyzing fertilizer samples taken from commercial applicators or property owners shall be paid by the commercial applicators or property owners if the sample analysis indicates that the phosphorus content exceeds the levels authorized in this Section.

Subd. 3 Fertilizer Content. No person, firm, corporation or franchise shall apply liquid fertilizer within the City which contains more than one-half percent by weight of phosphorus, or granular fertilizer which contains more than three percent by weight of phosphorus, unless the single application is less than or equal to .10 pounds of phosphorus per 1,000 square feet in the form of P205.

Subd. 4 Total Amount. Annual application amount shall not exceed 0.5 pounds of phosphorus per 1,000 square feet of lawn area.

Subd. 5 Impervious Surfaces. No person shall apply fertilizer to impervious surfaces.

Subd. 6 Buffer Zone. Fertilizer applications shall not be made within ten feet of any wetland or water resource.

Subd. 7 Waterfowl. No person shall place feed for waterfowl on, in or within 150 feet of a wetland, pond, lake or water resource, if it results in a concentration of ten or more waterfowl at any time.

325.05 Exempt. Newly established turf areas shall not be limited by this Section on the quantity of phosphorus for the first growing season.

325.06 Penalty. Any person violating any provision of this Section shall be guilty of a misdemeanor.

SECTION 330 - PET SHOPS, PET GROOMING SHOPS, ANIMAL HOSPITALS, AND PROHIBITING KENNEL OPERATION

330.01 Definitions. Unless the context otherwise indicates, the following terms have the meanings stated:

Subd. 1 Kenel. Any establishment for the raising, training or boarding of dogs. Cats or other small animals for hire or profit, or any establishment or residence, other than a pet shop, pet grooming shop or animal hospital, where more than three dogs or cats are harbored or kept.

Subd. 2 Pet Shop. Any establishment operated for the purpose of selling dogs, cats, birds, mice, fish, reptiles or other small animals.

Subd. 3 Pet Grooming Shop. Any establishment at which the fur of dogs, cats or other small animals is cleaned, brushed, cut or styled or where such animals are otherwise groomed.

Subd. 4 Animal Hospital. Animal hospital shall mean any establishment operated by a licensed veterinarian for the purpose of practicing veterinary medicine on dogs, cats and other small animals.

330.02 Kennels Prohibited. It shall be unlawful to operate a kennel anywhere within the City.

330.03 License Required; Insurance.

Subd. 1 License Required. It shall be unlawful to operate a pet shop, pet grooming shop or animal hospital in the City without first securing a license from the Council. Licenses shall be applied for and issued pursuant to Section 350 and the license fee shall be as provided for in Section 350.

Subd. 2 Insurance. No license shall be issued until the applicant has placed on file with the City Administrator a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices or facilities operated in connection with the applicant's business. Such insurance shall be in the minimum amount of \$100,000 for each person and \$300,000 for each accident.

330.04 Sanitation; Health; Inspection.

Subd. 1 Sanitation. Every establishment licensed pursuant to this Section shall be maintained in a clean and sanitary condition, and no refuse or waste material shall be allowed to remain on the premises for more than twenty-four hours. No establishment licensed pursuant to this Section shall house any animal, either on a temporary or permanent basis in outdoor pens or holding areas.

Subd. 2 Disposal of Fur. No animal fur, hair, feathers or the like present on any establishment licensed pursuant to this Section shall be allowed to enter the municipal sanitary sewer system. The owner or owners of any establishment licensed pursuant to this Section shall be liable to the City for any damage to the municipal sanitary sewer system caused by the failure to comply with this Section.

Subd. 3 Health of Animals. All animals in any establishment licensed pursuant to this Section shall be treated humanely and animals found to have any disease shall be isolated, if necessary, and treated promptly. No pet grooming shop licensed pursuant to this Section may house animals overnight.

Subd. 4 Inspection. The City health inspector shall inspect every establishment licensed pursuant to this Section as often as is necessary to assure compliance with its terms. Licensed premises shall be open to the City health inspector during all normal business hours.

SECTION 335 - EXHIBITIONS AND CARNIVALS

335.01 License Required. It shall be unlawful to conduct to operate within the City any exhibition or carnival which is open to the public without first securing a license

therefor pursuant to Section 350; provided that this Section shall not be held to apply to those amusements or exhibitions which are specifically licensed pursuant to other sections of this Code.

335.02 **Definitions.** Unless the context otherwise indicates, the following terms have the meanings stated:

Subd. 1 **Exhibitions.** Circuses, menageries, carnivals, side shows and other similar amusement enterprises which are open to the public and for admission to which a fee is charged.

Subd. 2 **Carnival.** Amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food-dispensing facilities and sideshows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or other activities in violation of City ordinances.

335.03 **Condition of License.** In addition to other requirements set forth herein the applicant shall furnish suitable evidence of his/her intention and ability to comply with the following conditions: The operator and sponsor of the carnival or exhibition shall each be wholly responsible for maintaining order and for keeping the site clean, free of trash, papers and other debris. Trash containers in adequate number shall be placed in convenient locations for the use of the public. No ride shall be placed in operation for public use until the same has been inspected for mechanical, structural, electrical and other hazards, by the building inspector and such other officers or employees of the City having jurisdiction. Adequate safeguards shall be placed to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches and other possible or potential hazards.

335.04 **Supervision.** A competent operator must be in charge of each ride or other amusement. Sufficient number of persons to supervise the entire playground or park and maintain order must be supplied by the owner or operator.

335.05 **Insurance.** No license shall be issued for placed on file with the City Clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount of \$100,000 for each person, and \$300,000 for each accident.

335.06 **Athletic Exhibitions; License; Fee.** It shall be unlawful to conduct, operate or exhibit any race between persons, animals or vehicles, boxing or wrestling match, or any other athletic contest or exhibition for admittance to which a fee is charged without having first secured a license therefor; provided that no fee

shall be required for any exhibition given under the auspices or for the benefit of any religious, educational, charitable, social or fraternal organization.

335.07 Revocation - Stopping Use of Any Ride or Other Amusement.

Such license may be revoked by the Mayor for any violation of the provisions of this Article. The Chief of Police or the Building Inspector may seal any ride or other amusement licensed hereunder when such ride or amusement is deemed dangerous to children or in an unsafe condition until such danger is eliminated or unsafe condition corrected.

SECTION 340 - FILLING STATIONS

340.01 Filling Station Defined. Unless the context otherwise indicates, the term filling station means any building, structure or premises, enclosure or other place within the City where a container or tank (either portable or stationary) containing either carbon bisulphide, gasoline, naphtha, benzol, hydrocarbon (gas drips), liquified petroleum gas, acetone, kerosene, turpentine, or other flammable liquids, having a flash point below 165 degrees Fahrenheit, are kept or located for the purpose of selling, offering for sale, or distributing any such liquids from such containers, or tanks; provided, however, that the provisions of this Section shall not apply to any filling station owned by the City or to any place where such flammable liquids are kept or sold for medicinal purposes only.

340.02 License Required. No person shall manage, conduct, operate or carry on the business of a filling station without first having obtained a license from the Council, as hereinafter provided.

340.03 Application. Application for a license for conducting a filling station business shall be made to the City Clerk and shall specify the location of the building and premises on which it is proposed to keep such filling station, and the

capacity of each container or tank. Each application shall be approved by the fire marshal before a license is issued.

340.04 General Regulations - Inspection. Each filling station shall be conducted and maintained in accordance with the provisions of this Section. Each filling station shall be inspected at least twice in every year by the fire marshal or his/her assistant. It shall be the duty of the fire marshal or his/her assistant to see that the premises are maintained in compliance with this or other ordinances of the City, to see that there is no dangerous accumulation of waste or other combustible material on the premises, and to report to the mayor or Council any violations of this Section 340 which may be discovered during such inspection.

340.05 Curb Stations Prohibited - Removal. No filling station shall operate on any street, sidewalk or public ground for the purpose of supplying any motor fuel to vehicles or for any other purpose; and every station shall be arranged so that no part of any vehicle shall be on any public property when receiving any such service as aforesaid. Any station whose operations at the time of the adoption of this Section do not conform to these provisions, upon being served a written notice by direction of the Council, shall within thirty (30) days thereafter arrange to conform to them.

340.06 Transfer of License. No license shall be assigned or transferred to any other person, nor shall any such license authorize doing business on any other premises than those designated in the application for such license.

340.07 Location Near Schools or Other Places of Public Assembly.

No portion of the premises where flammable liquids are handled or stored shall be located within 200 feet of any school, church, theatre or other place of public assembly, except that filling stations which were in operation on or before December 2, 1975, shall be exempt from this Subsection.

340.08 Insurance. No license shall be issued until the applicant has placed on file with the City Clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with the applicant's business. Such insurance shall be in the minimum amount of \$100,000 for each person and \$300,000 for each accident.

SECTION 345 - THE SALE OF TOBACCO

345.01 Purpose. The City recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products, and tobacco related devices, and such sales, possession and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with illegal use of tobacco, tobacco products and tobacco devices, and to further the official public policy of the State of Minnesota in regard to

preventing young people from starting to smoke as stated in Minn. Stat. §144.391.

345.02 Definitions. As used in this section, the following terms are defined as follows:

Subd. 1 Tobacco or Tobacco Products. Tobacco or Tobacco products shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco, cheroots; shorts; plug and twist tobaccos; dipping tobaccos, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.

Subd. 2 Tobacco Related Devices. Tobacco related devices shall mean any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

Subd. 3 Self-Service Merchandising. Self-Service Merchandising shall mean open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 4 Vending Machines. Vending Machine shall mean any mechanical, electric or electronic or other type of device which dispenses tobacco, products, or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

Subd. 5 Individually Packaged. Individually packaged shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packing of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

Subd. 6 Loosies. Loosies shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7 Minor. Minor shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8 Retail Establishment. Retail establishment shall mean any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. Retail establishment shall include, but not be limited to, grocery stores, convenience stores and restaurants.

Subd. 9 Moveable Place of Business. Moveable Place of Business shall refer to any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10 Sale. A sale shall mean any transfer of goods for money, trade, barter or other consideration.

Subd. 11 Compliance Checks. Compliance checks shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco

related devices for educational, research and training purposes as authorized by State and Federal laws. Other units of government for the purpose of enforcing appropriate Federal, State or local laws may also conduct compliance checks and regulations relating to tobacco, tobacco products and tobacco related devices.

Subd. 12 Community Service. Community Service shall mean a service that provides assistance to the community. Community service shall have a reparative element which enables offenders to actually, and symbolically, pay back a debt to the community.

345.03 License Required. No person shall sell or offer to sell any tobacco, tobacco products or tobacco related device without first having obtained a license to do so from the City.

Subd. 1 Application for License. An application for a license to sell tobacco, tobacco products or tobacco related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of completed application, the City Administrator shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Administrator shall determine that an application is incomplete, he or she shall determine that an application is

incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2 Action. The Council may either approve or deny the license, or it may delay action for a reasonable amount of time to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

Subd. 3 Term All licenses issued under this ordinance will expire December 31st of the year the license was purchased.

Subd. 4 Suspension or Revocation. Any license under this ordinance may be revoked or suspended as provided in Section 350.06.

Subd. 5 Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council. The licensee shall not be entitled to a refund of the license fee upon revocation or voluntarily ceasing the licensed activity.

Subd. 6 Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

Subd. 7 Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

345.04 Fees. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be found in Section 350.09.

345.05 Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- a. The applicant is under the age of 18 years.
- b. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products or tobacco related devices.
- c. The applicant has had a license to sell tobacco, tobacco products or tobacco related devices.
- d. The applicant fails to provide any information required on the application, or provide false or misleading information.
- e. The applicant is prohibited by Federal, State or other local law, ordinance or other regulation, from holding such a license.

345.06 Prohibited Sales. It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product or tobacco related device:

- a. To any person under the age of eighteen (18) years.
- b. By means of any type of vending machine, except as may otherwise be provided in this ordinance.
- c. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco products or tobacco related devices and whereby there is not a physical exchange of tobacco, tobacco products or tobacco related device between the licensee or the licensee's employee and the customer.
- d. By means of loosies as defined in Section 345.01, Subd. 06 of this ordinance.
- e. Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
- f. By any other means, to any other person, or in any other manner or form prohibited by Federal, state or other local law, ordinance provision or other regulation.

345.07 Vending Machines. It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco, tobacco products or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

345.08 Self-Service Sales. It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco products or the tobacco related devices between the licensee or his or her clerk and the customer. All tobacco, tobacco products and tobacco related devices shall either be stored behind a counter or other area, not

freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products or tobacco related devices at the time this ordinance is adopted shall comply with this Section within 180 days. Self-service sales restriction shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco related products and which cannot be entered at any time by persons younger 18 years of age.

345.09 Responsibility. All licenses under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or federal law, or other applicable law or regulation.

345.10 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging within the written consent of their parents or guardians, minors over the age of fifteen (15) years, but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research or training purposes, or required for the enforcement of a particular State or Federal law.

345.11 Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance.

Subd. 1 Illegal Sales. It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product or tobacco related device to any minor.

Subd. 2 Illegal Possession. It shall be a violation of this ordinance for a minor to have in his or her possession any tobacco, tobacco product or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 3. Illegal Use. It shall be a violation of this ordinance of any minor to smoke, chew, sniff or otherwise use any tobacco product, or tobacco related device.

Subd. 4. Illegal Procurement. It shall be a violation of this ordinance 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 ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 5. Use of False Identification. It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

345.12 Violations

Subd. 1 Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

Subd. 2. Hearings. If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The Council shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this ordinance did occur, the decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 345.13

of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court of the city in which the alleged violation occurred.

Subd. 6. Criminal Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution for any alleged violation of this ordinance.

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

345.13 Penalties

Subd. 1. Licensees and Employees. Any licensee, and any employee of a licensee, found to have violated this ordinance shall be charged an administrative fine of \$200 for a first violation of this ordinance; \$500 for a second offense at the same licensed premises within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

Subd. 2. Other Individuals. Other individuals, other than minors regulated by Subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee of \$100.

Subd. 3 Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products or tobacco related devices shall be charged an administrative fee of \$25.00 and will be subjected to 20 hours of community service.

Sub. 4 Criminal Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution for any violation of this ordinance.

345.14 Exceptions and Defenses. Nothing in this ordinance shall prevent the providing of tobacco, tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

345.15 Severability and Savings Clause. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent

jurisdiction, that finding shall not serve as a validation or effect the validity and enforceability of any other section or provision of this ordinance.

SECTION 350 - FEES AND GENERAL LICENSING REGULATIONS

350.01 Applicability. The provisions of this Section 350 shall apply to the application, issuance, expiration, suspension and revocation of all licenses in the City except as may otherwise be specifically provided in this Code pertaining to particular types of licenses.

350.02 Application for Licenses. Application for licenses shall be made in writing to the City Clerk for presentation to the Council. Such applications shall specify the following:

(a) Name and residence of the applicant(s) and if a corporation, the registered office thereof.

(b) The name and address of the location or place of business or activity for which the license is requested, or in the case of occupational licenses, the location from which the applicant operates.

(c) Such additional information or documents as the Section or administrative regulations pertaining to the particular license may require from the applicant.

350.03 Review Prior to Council Actions. Prior to submitting the application to the Council for approval, the City Clerk shall submit the application to the appropriate municipal officer to insure that all Section requirements have been complied with, and shall furnish the Council with such additional information as may be deemed appropriate or as requested. In addition, the officer shall recommend approval or disapproval of the applications, and shall when recommending disapproval, furnish the Council in writing his/her reasons.

350.04 Notice to Applicant. In the event disapproval of an application is recommended or in the event the Council disapproves or materially qualifies the license, the City Clerk shall notify the applicant of:

(a) The nature of the recommendation.

(b) The time and place at which the Council will next consider application.

(c) The applicant's right to appear before the Council in support of the application.

350.05 Council Action. The application shall be submitted to the Council for consideration within a reasonable period following

submission to the City Clerk. In no event, may the Council delay approval or denial longer than seven (7) weeks subsequent to the date applications are to be submitted, unless notice is given to the applicant and provisions are made for the granting of a temporary license.

350.06 Suspension; Revocation. The Council may suspend or revoke any license issued pursuant to the ordinances if the Council finds that any of the following ever occur; provided, however, that the licensee shall be given notice of the proposed revocation or suspension and be provided an opportunity to appear before the Council and be heard:

(a) That the licensee has knowingly made false statements in or regarding his/her application.

(b) That the licensee or his/her agents have violated or failed to comply with ordinance provisions, statutes, or legal directives pertaining to the regulation of activities authorized by the license.

(c) That the licensee has failed to correct or remove ordinance violations after receipt of notice to do so.

(d) That the continued effectiveness of the license constitutes a substantial threat to the public peace, health, safety or welfare.

350.07 Issuance. Upon approval of the application by the Council, the City Clerk shall issue a license to the applicant. The license states the name and address of the premises and the activity licensed. The applicant shall display the license so that it is easily observable by the public, or as required by the specific ordinances requiring the license.

The City Council may set a lower license fee in Section 350 of this Code for transient merchants which are engaging in the transient merchant activity to raise money for bona fide religious, charitable, educational or political purposes.

350.08 Licenses - Non-transferable, No Refund. Unless otherwise provided by the specific section requiring a license, a license is non-transferable, and the licensee shall not be entitled to a refund of any license fee upon revocation or voluntarily ceasing the licensed activity.

350.09 Licenses and Permit Fees. The fees for the listed licenses shall be adopted by City Council resolution, notwithstanding other section provisions regarding the specific fee.

Type of License

Arborist (Section 240)

Adult-oriented Business (Section 355)

Amusement Device (Section 310)

Animal Hosp./Pet Shops (Section 330)
 Billiard Hall/Pool Halls (Section 315)
 Bowling Alleys/Skating Rinks (Section 315)
 Commercial Lawn Fertilizer Contractor (Section 325)
 Exhibits and Carnivals (Section 335)
 Filling Stations (Section 340)
 Garbage and Refuse (Section 500)
 Non-intoxicating Malt Liquors (Section 400)
 -On-Sale
 -Off-Sale
 Alcoholic Beverages (Section 400)
 -Wine Only
 -On-Sale
 -Off-Sale
 -Sunday Liquor
 -Setup
 Clubs (Section 400)
 Peddlers, Solicitors (Section 305)
 Rental Housing (Section 1600)
 Transient Merchants (Section 305)
 Telecommunications (Section 370)
 Tobacco Products (Section 345)
 Contractors (Section 1205)
 Landscaping Management Plan (Section 710)
 Pawnbroker License (Section 306)
 Wild Animal Permit (Section 320)
 Parade Permit (Section 1140)
 Rental Housing Registration (Section 1600)

350.10 Planning and Zoning Fees. Any person applying for any permit (other than a building permit) required by the Circle Pines Zoning Section, or for a variance, conditional use permit, a Zoning Section text amendment or a Zoning District change shall pay a minimum fee and such additional costs as established under this Section. The fee is payable when an application or petition is filed and is not refundable. No such petition or application shall be accepted by the City unless it is accompanied by payment of the required fee or deposit specified in this Section. Fees payable under this Section are as follows:

<u>Type of Request</u>	<u>Area Included</u>	<u>Minimum Fee</u>
Zoning Text Amendment or District Change	Any area	\$ 300
Zoning Appeal/Variance	Any area	\$ 300
Site Plan Review	Site	\$ 300
Special or Conditional Use Permit	Any Area	\$ 300

Sign Permit	Any Area	\$25 plus \$.50 per sq. ft. sign area
Temporary Signs & Banners	Any Area	\$ 25
Community Unit Plan	Any Area	\$ 750
Vacation of Right-of-way	Any Area	\$ 300
Vacation of Easement	Any Area	\$ 300
Preliminary and Final Plat	Any Area	\$ 750
Comprehensive Plan Amendment		\$ 750
Tax Increment District Establishment or Change	\$ 500 plus \$5000 deposit	

In addition to the minimum fee required under this Section, all applicants shall deposit \$1,500 (estimate of additional costs the City will incur in reviewing and processing the application or petition) with the City Clerk or unless stated otherwise. The fees to be charged for review and processing of the above applications shall be sufficient to reimburse the City for all of the actual planning, legal and engineering expenses incurred and fees paid to consultants and other professionals by the City for their review of the application, and the costs of printing, mailing and supplies; and following the completion of final action by the Planning Commission or Council on the application or petition, the City Administrator shall prepare an itemized list of all costs incurred by the City as specified in this Section and deduct the total costs from the deposit and return the balance, if any, to the applicant. In the event that the costs exceed the deposit or minimum fee, the City Administrator shall charge the applicant for the excess costs and submit to him/her a statement for the balance due. The applicant shall pay the balance of the excess cost within thirty (30) days of the date of the statement. In the event that the total fee is not paid with the application or petition filed by the applicant, the application or petition shall be declared incomplete, and any action taken by the Council or Planning Commission in response to it shall automatically become null and void.

350.11 Subdivision Fees The following fees are set for applications for subdivisions.

<u>Type of Request</u>	<u>Minimum Fee</u>
Subdivision	\$750 plus \$30 per lot established by the subdivision

350.12 Renewals. All applications for renewals of licenses shall be submitted four (4) weeks prior to the expiration date set in 350.09.

350.13 Penalty. If an application for license renewal is not submitted within twenty-one (21) days after expiration of the current license, the licensee shall cease the previous license activity. Continued activity after the twenty-one day period shall be a Section Violation.

SECTION 355 - ADULT ESTABLISHMENTS

355.01 Purpose and Intent. The purpose of this Section 355 is to prescribe licensing requirements for sexually-oriented businesses in order to protect the general health, safety and welfare.

355.02 Findings of the City Council.

Subd. 1 Findings. The City Council of the City of Circle Pines makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the Council's review of the "Report of the Attorney General's Working Group on Regulation of Sexually-Oriented Businesses", dated June 6, 1989, prepared by Hubert H. Humphrey, III, Attorney General of the State of Minnesota, and the Rochester, Minnesota/Olmsted County Planning Department's March 2, 1988 report entitled, "Adult Entertainment: Land Use and Legal Perspectives." The Council's findings are as follows:

(a) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services;

(b) Sexually-oriented businesses can be used for fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures;

(c) Sexually-oriented businesses can increase the risk of exposure to communicable diseases, including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public;

(d) Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises;

(e) A licensing and regulatory scheme as prescribed herein can facilitate and aid in monitoring sexually-oriented businesses for adverse secondary effects on the community; and

(f) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

Subd. 2 The provisions of this Section 355 have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including Adult-oriented materials. Similarly, it is not the intent or effect of this Section 355 to restrict or deny access by adults to Adult-oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market. In direct furtherance of the substantial goals of public health, safety and welfare, the City Council adopts the following licensing regulations, recognizing that it has a great interest in the promotion of health and the prevention of criminal activity.

355.03 Definitions.

Subd. 1 For purposes of this Section, the terms defined in this Section have the meanings given them.

Subd. 2 Adult Use. Any of the activities and businesses described below constitute "Adult-Oriented Businesses" which are subject to the regulations of this Section 355.

Subd. 3 Adult Book and/or Media Store. An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

Subd. 4 Adult Cabaret. An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Subd. 5 Adult Establishment. Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to Specified Sexual Activities or Specified Anatomical Areas. Specifically included in the term, but without limitation, are adult book

and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other adult establishments.

Subd. 6 Adult Hotel or Motel. Adult Hotel or Motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

Subd. 7 Adult Mini-Motion Picture Theater.

(a) A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 50 persons used for presenting motion pictures, including, but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

(b) Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises including, but not limited to, private booths, viewing by means of coin-operated or other mechanical devices and the viewing of excerpts of motion pictures offered for sale or rent.

Subd. 8 Adult Modeling Studio. An establishment, which excludes minors from all or part of the establishment, whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

Subd. 9 Adult Motion Picture Arcade. Any place which excludes minors from all or part of the establishment wherein coin or token-operated or electronically, electrically or mechanically-controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained 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 emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

Subd. 10 Adult Motion Picture Theater. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures including, but not limited to, film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

Subd. 11 Adult Novelty Business. A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell or displays devices which simulate human genitals or devices which are designed for sexual stimulation.

Subd. 12 Specified Anatomical Areas are any of the following conditions:

- (a) Less than completely and opaquely covered;
 - (1) human genitals, pubic region or pubic hair
 - (2) buttock; and
 - (3) female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernible turgid state, even if opaquely covered.

Subd. 13 Specified Sexual Activities are any of the following conditions:

- (a) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital or oral-genital intercourse, whether between human beings or between a human being and an animal.
- (b) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound or otherwise physically restricted on the part of one so-clothed.
- (c) Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.
- (d) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or

between humans and animals in an act of apparent sexual stimulation or gratification.

355.04 Application of this Ordinance Except as in this Section 355 specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Section 355.

No Adult-Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Circle Pines, the laws of the State of Minnesota or the United States of America. Nothing in this Section 355 shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

355.05 Location During the term of this Section 355, no Adult-Oriented Businesses shall be located less than 350 feet from any residential zoning district boundary or site used for residential purposes, and less than 350 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no Adult-Oriented Business may be located within 150 feet of another Adult-Oriented Business. For purposes of this Section 355, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site or another Adult-Oriented Business site to the nearest boundary of the proposed Adult-Oriented Business site.

355.06 Hours of Operation No Adult-Oriented Business site shall be open to the public from the hours of Eleven o'clock p.m. to Ten o'clock a.m.

355.07 Operation

Subd. 1 Off-site Viewing. An establishment operating as an Adult-Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.

Subd. 2 Entrances. All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

Subd. 3 Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books,

magazines, photographs, videotapes or any other material.

Subd. 4 Illumination. Illumination of the premises' exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

Subd. 5 Signs. Signs for Adult-Oriented Businesses shall comply with the City's sign ordinance Section 1330, and in addition signs for Adult-Oriented Businesses shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.

355.08 Licenses.

Subd. 1 License Required. All establishments, including any business operating at the time this Section 355 becomes effective, operating or intending to operate an Adult-Oriented Business, shall apply for and obtain a license from the City of Circle Pines. A person is in violation of the City Code if

the person operates an Adult-Oriented Business without a valid license, issued by the City.

Subd. 2 Applications. An application for a license must be made on a form provided by the City.

(a) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(b) The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the health official, fire marshal and building official.

(c) The application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, managers or operators character; whether the applicant, manager or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place and nature of such crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee or manager insofar as and regarding credit which has been extended for the purposes of constructing,

equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the business.

(d) If the application is made on behalf of a corporation, joint business venture, partnership or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses and dates of birth of all individuals having an interest in the business, including partners, officers, owners and creditors furnishing credit for the establishment, acquisition, maintenance and furnishings of said business and, in the case of a corporation, the names addresses and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.

(e) All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

Subd. 3 Issuance or Renewal of License. The City Administrator shall recommend approval of the issuance or renewal of a license by the City to an applicant within 45 days after receipt of an application unless the Administrator finds one or more of the following to be true;

(a) An applicant is under 18 years of age.

(b) An applicant is overdue in his payment to the City, County or State of taxes, fees, fines or penalties assessed against him or her or imposed upon him or her in relation to an Adult-Oriented Business, or if the State of Minnesota prohibits the issuance of such a license because of taxes, fees, fines or penalties assessed against him or her.

(c) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(d) An applicant has been convicted of a violation of a provision of this Section 355, other than the offense of operating an Adult-Oriented business without application. The fact that a conviction is being appealed shall have no effect.

(e) The premises to be used for the Adult-Oriented Business have not been approved by the health official, fire marshal and the building official as

being in compliance with applicable laws and ordinances; such inspections shall be completed within thirty (30) days from the date the application was submitted, provided that the application contains all of the information required by this Section 355. If the application is deficient, the inspections shall be completed within thirty (30) days from the date the deficiency has been corrected.

(f) The license fee required by this chapter has not been paid.

(g) An applicant has been convicted of a crime involving any of the following offenses:

(1) Any sex crimes as defined by Minn. Stat. §609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith;

(2) Any obscenity crime as defined by Minn. Stat. §617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

- 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;

- less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

- 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 late date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

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

Subd. 4 Requalification. An applicant who has been convicted of an offense listed in Section 355.08, Subd. 3(g), may qualify for an Adult-Oriented Business license only when the time period required by Section 355.08, Subd. 3(g), has elapsed.

Subd. 5 Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult-Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult-Oriented Business so that it may be easily read at any time.

Subd. 6 Council Action. The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected.

Subd. 7 Appeals. Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or Clerk of the City.

355.09 Fees. Fees shall be set by Section 350.

355.10 Inspection.

Subd. 1 Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an Adult-Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

Subd. 2 Refusal to Permit Inspections. A person who operates an Adult-Oriented Business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 355.12.

Subd. 3 Exceptions. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

355.11 Expiration and Renewal.

Subd. 1 Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 355.08. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.

Subd. 2 Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

355.12 Suspension.

Subd. 1 Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

(a) Violated or is not in compliance with any provision of this Section 355.

(b) Engaged in the use of alcoholic beverages while on the Adult-Oriented Business premises other than an Adult Hotel or Motel.

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(c) Refused to allow an inspection of the Adult-Oriented Business premises as authorized by this Section 355.

(d) Knowingly permitted gambling by any person on the Adult-Oriented Business premises.

(e) Demonstrated inability to operate or manage an Adult-Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

Subd. 2 Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing before the City Council. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

355.13 Revocation.

Subd. 1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 355.12 occurs and the license has been suspended within the preceding 12 months.

Subd. 2 Causes of Revocation. The City shall revoke a license if it determines that:

(a) A licensee gave false or misleading information in the material submitted to the City during the application process;

(b) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(c) A licensee or an employee has knowingly allowed prostitution on the premises;

(d) A licensee or an employee knowingly operated the Adult-Oriented Business during a period of time when the licensee's license was suspended;

(e) A licensee has been convicted of an offense listed in Section 355.08, Subd. 3(g), for which the time period required in Section 355.08, Subd. 3(g), has not elapsed;

(f) On two or more occasions within a 12 month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 355.08, Subd. 3(g), for which a conviction has been obtained, and the person or persons were employees of the Adult-Oriented Business at the time the offenses were committed.

(g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

Subd. 3 Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subd. 4 Exceptions. Section 355.13, Subd. 2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.

Subd. 5 Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult-Oriented business license for one year from the date revocation became

effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 355.13, Subd. 2(e), an applicant may not be granted another license until the appropriate number of years required under Section 355.08, Subd. 3(g), has elapsed.

Subd. 6 Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing before the City Council. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the license. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

355.14 Transfer of License A licensee shall not transfer their license to another, nor shall a licensee operate an Adult-Oriented business under the authority of a license at any place other than the address designated in the application.

355.15 Severability Every section, provision or part of this Section 355 or any permit issued to this ordinance is declared severable from every other section, provision or part thereof to the extent that if any section, provision or part of section 355 or any permit issued pursuant to this Section 355 shall be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision or part thereof.

SECTION 370 - ESTABLISHING TELECOMMUNICATIONS PERMIT

370.01 Governing Construction, Installation, Operation, Repair, Maintenance, Removal and Relocation of Facilities. A section governing the construction, installation, operation, repair, maintenance, removal and relocation of facilities and equipment used for the transmission of telecommunications or related services in the public ground of the City of Circle Pines.

370.02 Definitions. The terms defined in this Section have the meanings given them.

a) Company. A natural or corporate person, business association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seek or are required to construct, install, operate, repair, maintain, remove or relocate facilities in the City.

b) City Administrator. The City Administrator or the City Administrator's designated representative.

c) Facilities. Telecommunications equipment of any kind, including but not limited to audio, video, paging, facsimile or similar service, not governed by Minnesota Statutes, Chapter 238, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased or operated by a company on, over, in, under, across or along public ground.

d) Public Ground. Highways, roads, streets, alleys, public ways, utility easements and public grounds in the City.

370.03 Permit Procedure

a) Permit Required. A company may not construct, install, repair, remove or relocate facilities, or any part thereof, in, on, over under or along public ground without first obtaining a permit from the City.

b) Application. Application or a permit is made to the City Administrator.

c) Issuance of Permit. If the City Administrator determines that the applicant has satisfied the requirements of this Section 370 the City Administrator may issue a permit to the company. An applicant may contest a permit denial or the conditions of approval by written notice to the City Administrator requesting a City Council review within fourteen (14) days of the Administrator's action. The Council shall hear any contest of the Administrator's actions under this ordinance within forty-five (45) days of the City Administrator's receipt of the contest notice. Nothing in this ordinance precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to the issuance of a permit set forth herein.

d) Permit Fee. The application must be accompanied by the permit fee as listed in City Code Section 350.09.

e) Security for Completion of Work. Prior to commencement of work, the company must deposit with the City security in the form of certified check, letter of credit or construction bond, in a sufficient amount as determined by the City Administrator for the completion of the work. The securities will be held until the work is completed plus a period of Twelve (12) months thereafter to guarantee that restoration work has been satisfactorily completed. Upon application of the company, providing such information as the City Administrator may require, if two or more work projects are to be constructed during a calendar

year, the director may accept, in lieu of separate security for each project, a single security for multiple projects in such form and amount as determined, in the discretion of the City Administrator to be sufficient to assure completion of all projects which may be in progress at any one time during that calendar year and to guaranty that restoration work will be satisfactorily completed. The security will then be returned to the company with interest if required by law at the applicable statutory rate.

f) Inspection of Work. When the work is completed the company must request an inspection by the City. The City Administrator will determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval.

370.04 Restoration and Relocation.

a) Restoration. Upon completion of the work, the company must restore the general area of the work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for two years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and restore the public ground to the same condition, the City may put it in the same condition at the expense of the company. The company must, upon demand, pay to the City the direct

and indirect cost of the work performed by or for the City, including but not limited to the City's administrative costs. To recover its costs, the City will first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any remedies available to the City.

b) Company Initiated Relocation. The company must give the City written notice prior to a company-initiated relocation of facilities. A company-initiated relocation must be at the company's expense and must be approved by the City, such approval not to be unreasonably withheld. All relocations are subject to the permit requirements of Section 370.

c) City Required Relocation. The company must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the City requires such relocation. All relocations are subject to the permit requirements of Section 370.

d) Relocation Where Public Ground Vacated. The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the City. If the vacation proceedings are initiated by the company, the company must pay the relocation costs. If the vacation proceedings are initiated by the City or other persons, the company must pay the relocation costs unless otherwise agreed to by the City, company and other persons. All relocations are subject to the permit requirements of Section 370.

370.05 Company Default.

a) Notice. If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements for more than 30 days after receiving written notice from the City of the default, the City may terminate the rights of the company under the permit. The notice of default must be in writing and specify the provisions of the permit or this Section 370 under which the default is claimed and state the grounds of the claim. The notice must be served on the company by personally delivering it to an officer thereof at its principal place of business in Minnesota or by certified mail to that address.

b) City Action on Default. If the company is in default in the performance of the work authorized by the permit, the City may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company must reimburse the City for the City's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under 370.03(e) will be applied by the City first toward payment for such reimbursement. The remedy set forth in this Section 370.05(b) is in addition to any remedy the City may have at law or equality.

370.06 Indemnification.

a) Scope. The company will indemnify, keep and hold the City, its elected officials, officers, employees and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, removal, relocation or operation of the facilities affecting the public ground, unless such injury or damage is the result of the negligence of the City, its elected officials, employees, officers or agents.

The city will notify the company of claims or actions and provide a reasonable opportunity for the company to accept and undertake the defense.

b) Claim Defense. If a claim or action is brought against the City under circumstances where indemnification applies, the company, at its sole expense, shall defend the City if written notice of the claim or action is given to the company within a period wherein the company is not prejudiced in the defense of such claim or action by lack of such notice. The company shall have complete control of such claim or action, but it may not settle without the consent of the City, which shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. In defending any action on behalf of the City, the company is entitled to assert every defense or immunity that the City could assert in its own behalf.

370.07 Other Conditions of Use.

a) Use of Public Ground. Facilities must be located, constructed, installed, maintained or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel and use of public ground. The facilities are subject to additional conditions of the permit as established by the director including but not limited to (i) the right of inspection by the City at reasonable times and places; (ii) the obligation to relocate the facilities pursuant to 370.04 c, d and (iii) compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission and other state and the federal law, including prompt compliance with the requirements of the Gopher State One call program, Minnesota Statutes Chapter 216D.

b) Location. The facilities must be placed in a location agreed to by the City. The company shall give the City at least forty-five days in advance of commencing construction on the facility written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the City's receipt of the company's written notice the City will notify the company in writing of the City's acceptance or rejection of the proposed location. If the City rejects the company's proposed location, the City shall propose alternative locations. The City does not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

c) Emergency Work. A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In such event the company must

request a permit not later than the second working day thereafter and comply with the conditions of the permit.

d) Street Improvements, Paving or Resurfacing. The City will give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice must contain (i) the nature and character of the improvements; (ii) the streets upon which the improvements are to be made; (iii) the extent of the improvements, the time when the City will start the work; and, (iv) if more than one street is involved, the sequence in which the work is to proceed.

e) Company Protection of Facilities. The company must take reasonable measures to prevent the facilities from causing damage to persons or property. The company must take reasonable measures to protect its facilities from

damage that could be inflicted on the facilities by persons, property or the elements. The company must take all actions reasonably necessary to protect its facilities when the City performs work near the facilities.

f) Prior Service Connection. In cases where the City is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five year period following the paving or resurfacing.

370.08 Effective Date and Applicability to Existing Facilities

Companies with facilities, in, on, over, under or along public ground on the effective date of Section 370 of the Code must take prompt action to comply with Section 370 and the permits authorized by this Section. A company, however, is not required to reapply for a permit obtained from the City prior to the effective date of this ordinance. A company is not required to pay the difference between the permit fee of a previously obtained permit and the equivalent newly obtained permit under this Section 370 of the Code. All other provisions of this section apply to existing facilities.

370.09 Acceptance of Requirements. By receiving a permit pursuant to Section 370, the company accepts and agrees to comply with all of the requirements of this Section.

370.10 Public Ground Other Than Right-of-Way. Nothing in this ordinance is intended to grant to the company authority beyond that given by Minnesota Statutes Section 222.37 for use of the public right-of-ways for construction and operation of facilities. If the City allows the company to use its non-right-of-way public ground, the terms of Section 370 apply to the extent they are consistent

with the contract, statutory and common law rights the City owns in such property.

370.11 Regulations; Permit Schedules. The City Administrator is authorized and directed to prepare suitable regulations and schedules for the administration of permits issued under this Section 370.

370.12 Severability. If any provision of this Section is contrary to law and therefore unenforceable, such provision will be severed and will not affect the other provisions of this ordinance.

SECTION 390 - DOMESTIC PARTNERSHIP REGISTRATION

390.01 Purpose

The City recognizes that the concept of familial relationships may extend beyond traditional marital and blood relationships. This expanded concept recognizes the relationship of two (2) non-married but committed adult partners. In order to provide such persons the opportunity to declare themselves as domestic partners, thus enabling employers to voluntarily provide equal treatment in employment benefits for such partners and their dependents, the City Council hereby enacts a Domestic Partner Registry.

390.02 Definitions

a) **Domestic Partners.** For the purpose of this Section, Domestic Partners are two (2) adults who:

1. Are both at least eighteen (18) years of age;
2. Are not related by blood closer than permitted under marriage laws of the state;
3. Are competent to enter into a contract;
4. Are jointly responsible for the necessities of life;
5. Are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities, or, are married under another state or foreign jurisdiction not operational in Minnesota under Minnesota Statute 517.03 (1)(b);
6. Have no other domestic partner with whom the household is shared, or with whom the adult person has another domestic partnership or a spouse regardless of household status; and
7. Reside in Circle Pines.

b) Domestic Partnership shall include:

1. Any domestic partnership currently registered with a government body pursuant to state, local or other law authorizing such registration, or
2. Marriages that would be legally recognized as a contract of lawful marriage in another local, state or foreign jurisdiction, but for the operation of Minnesota law.

390.03 Registration and Termination of Domestic Partnerships

- a) Application Form. The City will provide an application form, which Domestic Partner applicants will submit to the City Clerk indicating that they meet the definition of domestic partners as set forth in this Section. Forms will also be provided for subsequent amendments and termination of domestic partnership status.
- b) Registration Certificate. The City Clerk shall keep a record of each domestic partner certification as well as amendments thereto and termination thereof. Certificates will be provided and records maintained in keeping with provisions of the Minnesota Government Data Practices Act. Such certificates may be used as evidence of the existence or termination of a domestic partnership.
- c) Termination of Domestic Partnership. Domestic Partnership registration terminates when the earliest of the following occurs:
 1. One (1) of the partners dies; or
 2. Forty-five (45) days after one (1) partner sends the other partner written notice, on a form provided by the City, that he or she is terminating the partnership and files the notice of termination and an affidavit of service of the notice on the other partner with the City Clerk.
- d) Fees. Fees shall be set forth in the City's Fee Resolution for applications for Certification, amendments to an application, notice of termination or providing certified copies of any of these documents.