

CHAPTER XI

BUSINESS AND TRADE REGULATIONS

Section 1100 - Amusements

1100.01. Mini golf. Subdivision 1. Definition. For purposes of this subsection the term "public miniature golf course" or "practice golf course" means a building, enclosure, or place or premises where the public is directly or indirectly charged a fee or admission for the use of the premises or the equipment to practice or play golf, miniature golf or similar activities related to golf.

Subd. 2. License. It is unlawful to install, conduct, maintain or operate a public miniature or practice golf course without a license.

Subd. 3. Application. Application for a license is made to the council, and filed with the clerk on forms furnished by the clerk. The application must be accompanied by the license fee set by Appendix B.

Subd. 4. Conditions of license. Licenses for miniature or practice golf courses expire annually on December 31. Applications for licenses are considered by the city council, and, if approved by the council, a license shall be issued by the clerk. Licenses are not transferable. License renewal is subject to the license provisions described in section 1005 Licensing Procedures. (Amended, Ord. No. 02-05)

Subd. 5. License restrictions. A license will not be issued to operate a public miniature golf course or practice golf course on a block adjacent to a block where another golf course is operating. Traffic and the parking of automobiles on public streets are subject to reasonable rules and orders of the police department.

Subd. 6. Display. The license must be in a suitable frame, having a clear glass face and a substantial wood or metal back, so that the whole of the license may be seen. The license must be posted and displayed in a conspicuous place on the licensed premises. It is unlawful to post a license or permit it to be posted upon premises other than those for which the license was issued or to knowingly deface or destroy the license.

Subd. 7. Other conditions. It is unlawful for a licensee or for any employee of a licensee to:

- (a) permit dice to be thrown for money or for anything of value, or permit playing of cards, raffles or other games of chance, or any form of gambling, in the licensed premises or in any booth, yard, garden, or other place adjacent to the licensed premises or connected with it;
- (b) permit any person upon the premises to become disorderly; or

- (c) keep the licensed premises open or to operate the same between the hours of 12:30 a.m. and 8 a.m. of any weekday, or between the hours of 12:30 a.m. Sunday and 12:00 noon Sunday.

Subd. 8. Sanitary rest rooms. The licensed premises must be equipped with and provide adequate sanitary, separate toilet facilities for male and female patrons.

1100.03. (Repealed, Ord. No. 97-07)

1100.05. Theatres. Subdivision 1. License required. It is unlawful to engage in the business of keeping, maintaining, conducting, or operating a theatre, moving picture house, vaudeville house, or place for theatrical performances in the city without a license.

Subd. 2. Application. Application for a license is filed with the city clerk in writing, designating the place where the business is to be carried on, the name of the applicant, and other information required by the city clerk. The license must be authorized by the council.

Subd. 3. Terms. The annual license fee is set by Appendix B. Licenses expire annually on December 31. Applications for licenses are considered by the city council and issued by the clerk. Licenses are not transferable. License renewal is subject to the license provisions described in section 1005 Licensing Procedures. (Amended, Ord. No. 02-05)

Subd. 4. Revocation. Theatre licenses may be revoked by the council for cause after hearing.

1100.07. Carnivals, shows, public entertainments. Subdivision 1. License required. It is unlawful to give or maintain a show or public entertainment, circus, carnival, game or concert to which an admission is charged or for which private profit is expected, either directly or indirectly, without a license. Licenses are not required for an entertainment, other than a circus or outdoor carnival, given by amateurs, or in which the performers receive no pay, or which is given for the benefit of any school, church, or benevolent institution for a charitable purpose. The council may waive the license fee in the case of circus or outdoor carnival given for the benefit of a school, church or benevolent institution or for a charitable purpose.

Subd. 2. Application. Application for a license is made to the city clerk. The application must contain: (i) the name and address of the applicant; (ii) the nature of the entertainment; (iii) the place, time and duration thereof; (iv) method of advertising; (v) references as to financial responsibility of applicant, and (vi) such other information as the city council may require. The application must be made at least 30 days before the beginning of the proposed entertainment.

Subd. 3. Fees: bond and insurance. The application must be accompanied by the fee set by Appendix B. The application for a street entertainment, tent show, carnival or circus must be accompanied by a \$1,000,000 combined single limit insurance policy issued by an insurance company authorized to do business in the state of Minnesota. Additionally, a cash or corporate surety bond to be approved by the council in the amount of \$1,000, conditioned that the licensee will not damage streets or public property and will promptly and fully pay for or repair any damages so done, that all provisions of this code and conditions imposed by the council in the issuance of the license are fully complied with by the licensee, and for the benefit of persons injured or damaged by the licensed activity. (Amended, Ord. 03-22)

Subd. 4. Advertising. A licensed entertainment may not be advertised by shouting or calling out or by the playing of music or a musical instrument or other device upon the street or other public grounds. A licensee may not distribute handbills by putting them in automobiles or by handing them to persons in the streets.

Subd. 5. Prohibitions. Exhibition of immoral, vulgar or obscene character may not be given. The presenting of such a performance is grounds for revocation of the license and is a violation of this subsection.

Subd. 6. Hours. A licensed entertainment may not be operated between the hours of 11:00 o'clock p.m. and 8:00 o'clock a.m.

Subd. 7. Cleaning. The licensee must keep and maintain the licensed premises in a clean, sanitary and orderly condition while the entertainment is in operation. Upon the termination of the entertainment the licensee must promptly remove any temporary facilities, clean up all papers and other debris which have accumulated, and restore the property used and adjoining property to the same condition as existed prior to the commencement of the entertainment. The cleanup work must be done quietly and at reasonable hours.

Subd. 8. Conditions. The council may impose reasonable conditions in a license. In connection with outdoor carnivals and circuses, the council will consider the following matters and impose restrictions to protect the general public and the residents of property adjacent to the property where the licensed activity is conducted:

- (a) sanitation facilities for employees and patrons;
- (b) size of the parcel of property in relation to the amount of property which will be occupied by tents or other structures;
- (c) adequacy of off-street parking facilities;
- (d) compliance by the applicant with other applicable provisions of this code; and
- (e) other factors deemed necessary by the council.

Subd. 9. Exceptions. This subsection does not apply to entertainment regulated by other provisions of this code.

1100.09. Mechanical amusement devices. Subdivision 1. Findings. The council finds that excessive use of mechanical amusement devices, including video games, has the potential to cause adverse health effects and further that such devices pose a greater threat to the health and well being of children than of adults. The council further finds that such devices tend to encourage crowds, noise, loitering, and gambling, as well as other violations of state law and local ordinances wherever they are located and that as such they pose special law enforcement problems, which problems can be lessened by permitting use of mechanical amusement devices only in arcades. It is the purpose of this subsection to lessen the health threat to minors, not accompanied by their parent or guardian, of excessive video game use and to reduce the nuisance and law enforcement problems caused by mechanical amusement devices. The provisions of this subsection are in furtherance of those objectives. (Amended, Ord. No. 97-07)

Subd. 2. Definitions. For purposes of this subsection the terms defined in this subdivision have the meanings given them.

- a) "Mechanical amusement device" means, but is not limited to, any of the following types of equipment available for public use:

- (1) Any variety of pool, billiard, foosball, or ping-pong table and any machine or electronic device including, but not limited to, any pinball machine, electronic video game, mechanical miniature pool table, bowling machine, shuffle board, electric rifle or gun range, miniature mechanical electronic device and game or amusement patterned after baseball, basketball, hockey, similar games and any like device, machine, or game which may be played, which table, device or game is commonly, but not necessarily, played by the insertion of a coin or coins or at a fee fixed and charged by the establishment in which any such table, device, or machine is located.
 - (2) A coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator, and any device designed for and used exclusively as a ride by children including, but not limited to, any kiddie car, miniature airplane ride, mechanical horse, and other miniature mechanical device, not operated as part of or in connection with any separately licensed carnival, circus, show or other entertainment or exhibition.
 - (3) A coin operated juke box defined as any music vending machine, contrivance or device upon which the insertion of a coin, slug, token, plate, disc, key or credit into any slot, crevice, or other opening or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement.
- (b) "Minor" means any person less than 18 years of age: "unaccompanied minor" means a minor without the minor's parent or legal guardian present.
- (c) "Mechanical amusement center" means a business at one location used primarily for the operation of mechanical amusement devices consisting in the operation of ten or more machines and open for public use and participation; the term does not include a licensed premises or business which, by law or ordinance, a minor may not enter unless accompanied by a parent or legal guardian. (Amended, Ord. No. 97-07)

Subd. 3. License required. It is unlawful to maintain, keep, or sell within the city a mechanical amusement device in a business open for public use without a license. This subsection does not apply to mechanical amusement devices held or kept in storage or for sale and not actually in use or displayed for use. (Amended, Ord. No. 97-07)

Subd. 4. Types. In the license application, the applicant must disclose the type of establishment for which licenses are sought. There are three types of establishments:

- (a) those in which unaccompanied minors are not normally permitted;

- (b) those where both adults and unaccompanied minors are permitted, not including mechanical amusement arcades, (referred to in this subsection as "mixed locations"); and
- (c) mechanical amusement centers. (Amended, Ord. No. 97-07)

Subd. 5. Fees. The annual license fee for mechanical amusement devices or mechanical amusement centers are set by Appendix B. Licenses expire annually on December 31. Applications for licenses are considered by the city council and issued by the clerk. Licenses are not transferable. License renewal is subject to the license provisions described in section 1005 Licensing Procedures. (Amended, Ord. No. 97-07; Ord. No. 02-05)

Subd. 6. Form and display. The license must describe the device and show the name of the owner, address where the device is located, the license fee and the period for which license is granted. The license must be conspicuously displayed where the machine is operated.

Subd. 7. Gambling prohibited. It is unlawful to permit the operation of a licensed machine or device for the making of side bets or gambling. A prize, award, merchandise, gift, money or thing of value may not be given to a player.

Subd. 8. Operation by minors.

- (a) An unaccompanied minor may not operate a mechanical amusement device in a location in which unaccompanied minors are not normally permitted. Mechanical amusement devices in such locations must be clearly posted "Minors Prohibited from Operation". A location in which an unaccompanied minor is found operating a machine will have all its licenses immediately suspended pending a hearing by the city council. During the suspension the machine or machines in the location must be rendered inoperable.
- (b) An unaccompanied minor may not operate a mechanical amusement device in a mixed location. Mechanical amusement devices in such locations must be clearly posted "Minors Not Accompanied by a Parent or Guardian are Prohibited from Operation". A mixed location in which an unaccompanied minor is found operating a machine will have all its licenses immediately suspended pending a hearing by the city council. During the suspension the machine or machines in the location must be rendered inoperable.

Subd. 9. Prohibited activities. The following activities are prohibited on a licensed premises or in connection with an amusement device:

- (a) gambling or wagering of any type;
- (b) horseplay, profane language, or abuse of a mechanical amusement device;
- (c) loitering in the room where a mechanical amusement device is located;

- (d) operation of a mechanical amusement device by anyone under the age of 16 during school hours.

These regulations must be posted by the licensee in an easily readable form, provided by the city clerk, in a conspicuous place in the room in which a mechanical amusement device is located. (Amended, Ord. No. 97-07)

Subd. 10. Mechanical amusement center restrictions. In addition to the prohibited activities described in subdivisions 7 and 9 of this subsection, the following restrictions apply to mechanical amusement centers:

- (a) no amusement center shall be operated so as to constitute a public nuisance;
- (b) the licensee shall maintain order on the licensed premises at all times. This duty includes, but is not limited to, prevention of the following:
 - (1) harassment of any person in or adjacent to the licensed premises by any person on the licensed premises;
 - (2) the frequenting or use of licensed premises by any loud, boisterous, or disruptive person;
 - (3) the frequenting or use of licensed premises by any person who engages in an act of vandalism or destruction of property in or about or adjacent to the licensed premises; or
 - (4) conduct by a person on the licensed premises, which conduct has an adverse effect on adjacent property;
- (c) the licensee shall see that the licensed premises does not become overcrowded so as to constitute a hazard for health or safety of persons therein. The fire marshal shall designate and post the maximum number of persons to be permitted on the licensed premises;
- (d) the licensee shall provide an on-duty attendant at least 21 years of age upon the licensed premises during business hours. The licensed premises shall be locked and closed to the public whenever such attendant is not present thereon;
- (e) it is unlawful for the licensee or any person operating an amusement center to sell, offer for sale, knowingly permit to be sold or offered for sale, or to be dispensed or consumed, or knowingly brought in the amusement center, any alcoholic beverage or prohibited drug, or to knowingly allow any illegal activity upon the licensed premises including, but not limited to, gambling;
- (f) amusement centers shall be closed by 12:00 a.m. and may not open until 9:00 a.m. or until 12:00 noon on Sundays. At all other such times the licensed premises shall be locked and closed to the public;

- (g) the interior of an amusement center shall be illuminated as to insure proper and complete observation of patrons at all times. The building official may require conformance with recommended standards for lighting levels to carry out the intent of this subdivision;
- (h) the sale of smoke materials shall be prohibited on the site; and
- (i) the premises in which an amusement center is located shall have adequate access as required by the Uniform Building Code, but may have no entrances to or exit from adjoining buildings, uses, or premises. (Amended, Ord. No. 97-07)

Subd. 11. Exceptions. No license is required for any juke box, mechanical amusement device, or kiddie ride that is contained within the confines of a temporary carnival or fair which has been granted a license pursuant to section 100.07 of this Code. Subdivisions 8, 9 and 10 do not apply to jukeboxes or kiddie ride machines. (Amended, Ord. No. 97-07)

Subd. 12. Revocation. The council may for cause and on such reasonable hearing as it may prescribe, revoke a license and the revocation is final for that location. (Amended, Ord. No. 97-07)

1100.11. Rebound tumbling equipment. (Deleted, Ord. No. 03-13)

Section 1105 - Lawful Gambling

1105.01. Lawful gambling. Subdivision 1. Adoption by reference. Minnesota Statutes, chapter 349 relating to charitable gambling and MCAR 7860 adopted pursuant thereto are adopted by reference.

1105.03. Definitions. The definitions contained in Minnesota Statutes, section 349.12, subdivision 1 are adopted and incorporated by reference and constitute the definitions of those terms as used in this section.

1105.05. License or permit required. Lawful types of gambling are permitted only by organizations that have been issued either a currently valid gambling license issued by the state charitable gambling board, or a permit issued by the city to conduct gambling exempt from licensing under Minnesota Statutes, section 349.214.

1105.07. Investigation. Subdivision 1. State license. Upon receipt of notification from the charitable gambling board of the pendency or an application for issuance or renewal of an organization gambling license, the city manager must transmit the notification to the police department for its review and recommendation. The police department must investigate the matter and make its review and recommendation to the city council as soon as possible, but in no event later than 25 days following receipt of the notification by the city. The applicant must be notified in writing of the date on which the recommendation will be considered by the council.

Subd. 2. Investigation fee. The applicant for an organization gambling license must pay, at the time of application to the city, an investigation fee as provided by Appendix B.

Subd. 3. Council action. The council must consider the application not later than 25 days after written notification of the application has been received by the city. The council must consider the report of the police department, statements from the applicant, and any other information which the council believes to be relevant to the application. Thereafter the council may, by resolution, approve or disapprove of the license. If the investigation fee provided in subdivision 2 of this section has not been paid within the time limit provided in such subdivision 2, the council may disapprove the license on that basis.

Subd. 4. Criteria for council determination. In determining whether to approve or disapprove of the license, the city will disapprove of any application whereby the applicant seeks to be permitted to conduct gambling:

- (a) On premises which are not:
 - (1) owned or leased by the applicant, and
 - (2) located within the property which constitutes the principal place of business of the applicant.

- (b) Within a facility that is, in the case of bingo, already the location of licensed bingo unless:
 - (1) the applicant applied for license, together with bingo licenses previously issued, will not result in more than three bingo occasions per week; and (Amended Ord. No. 93-16, Sec. 1)
 - (2) the proceeds from the conduct of applicant's bingo activity will, in the opinion of the council, be used to support or further the non-bingo related activities or programs of the other individuals, corporations or partnerships licensed to conduct bingo within the facility.
- (c) If such activity is not, on the date of application, a lawful use for the premises in accordance with the land use regulations of the city.
- (d) If there are delinquent real estate taxes or special assessments payable with respect to the premises on which the gambling is proposed to be conducted.

Upon receipt of notification of the pendency of any license application before the charitable gambling board, if the provisions of this subdivision are not complied with, the clerk shall, in lieu of the provisions contained in subdivisions 4, 5, 6 and 9 of this section, transmit a certified copy of subdivision 7 to the charitable gambling board together with a statement from the city clerk that subdivision 7 is in full force and effect and that the application is disapproved pursuant to that subdivision. Such action by the city clerk constitutes the official action of the city. The provisions of this subdivision do not apply to the sale of raffle tickets.

Subd. 5. Reports. As a further condition to approval of the license, the council may require that the applicant agree to promptly furnish the city with copies of all records, reports, accounts and other data which applicant will be required to submit to the charitable gambling board during the term of the license. Failure of the applicant to fulfill such requirement may constitute ground for disapproval of licenses in subsequent years.

Subd. 6. Notification to Charitable Gambling Board. The city manager must transmit a certified copy of the council resolution to the charitable gambling board. If the council has disapproved the license, the city manager shall take such actions as are reasonably necessary to deliver a copy of such resolution to the board within 60 days from the date that the city received notice of the license application. A copy of the resolution will also be provided to the applicant upon request.

Subd. 7. Distribution of proceeds. (Added, Ord. No. 10-12, Sec. 1)

- (a) During any year that an eligible organization is licensed to conduct lawful gambling, at least 60% of its lawful purposes expenditures of net profits shall be for lawful purposes conducted or located within the City's trade area. At least 83% of said 60% must be expended within the City.
- (b) The City's trade area is defined as the City limits of Crystal, Golden Valley, New Hope, and Robbinsdale.

1105.09. Permit. Subdivision 1. Application. Organizations desiring to conduct lawful gambling which is exempt from state licensure under Minnesota Statutes, section 349.214, must apply to the city for a permit to conduct lawful gambling. The application must be on forms prepared by the city manager for that purpose and must be accompanied by the required permit fee. The permit fee is contained in Appendix B.

Subd. 2. Issuance. The manager will issue the permit if the following conditions have been met:

- (a) Neither the designated gambling manager nor any of the organization's officers have been convicted of any offense which would indicate lack of suitability of the designated manager or the organization to engage in the type of gambling activity for which the permit is sought.
- (b) The organization has existed in the city for at least three years prior to the date of application or has been recognized by the Internal Revenue Service as exempt from income taxation for the most recent three years.
- (c) On the date of application, the organization has at least 15 active members.
- (d) The organization will either own or lease the premises where the gambling activity would be conducted.
- (e) If the gambling activity is to occur on leased premises, the lease will be for a term at least equal in length to the term of the permit being sought.

Subd. 3. Bond waiver. Before the issuance of the permit, the designated gambling manager shall file with the city manager a fidelity bond in the amount of \$10,000. The bond must run in favor of the organization conducting the gambling activity and be conditioned upon the gambling manager fully and faithfully performing the duties of manager. The council may, upon unanimous vote, waive the bonding requirement.

Subd. 4. Fee: waiver. The permit fee may be waived in whole or in part by the city manager. The portion of the fee waived shall be returned to the permittee upon issuance of the permit. If the permit is denied, the city manager must retain \$50 of the fee to reimburse the city for its administrative and investigative expenses in connection with consideration of the permit application.

1105.11. Inspections. A peace officer or any properly designated employee of the city or the state of Minnesota may enter, inspect and search business premises licensed under this section, during business hours, without a warrant.

Section 1110 - Public Dances

1110.01. Definitions. Subdivision 1. For purposes of this subsection the terms "beer", "liquor", "furnish", and "minor" have the meanings given by chapter XII of this code. The term "teenage club" means a place to which minors are admitted whether on a membership basis or on an admission fee for each time of admittance or free of charge.

1110.03. Exceptions. This subsection does not apply to dances or social affairs or gatherings (i) in a private residence exclusively used as a private residence, or (ii) sponsored and under the auspices and under the direction and control of:

- (a) churches or religious organizations;
- (b) bona fide clubs in existence for 20 years;
- (c) bona fide clubs of congressionally chartered veterans organizations;
- (d) non-profit corporations organized under the laws of the state for civic, fraternal, social or business purposes or intellectual improvement on the promotion of sports, which have at least 50 members, and which have for more than a year, owned, hired, or leased a suitable and adequate building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee or similar body chosen by members at a meeting held for that purpose, none of whose members, officers, or agents are paid any compensation or profit;
- (e) hospitals or affiliated organization;
- (f) public school boards;
- (g) organizations supported in whole or part by state or federal funds.

1110.05. Permits. Subdivision 1. General rule. It is unlawful to give, hold, conduct or operate a dance hall, public dance or private dance to which minors are admitted or teenage clubs without a permit from the city. The permit may be for one or more dances or for a period not exceeding one year.

Subd. 2. Posting. The permit must be posted in a prominent place on the premises and show the names and addresses of the persons to whom issued, the fee paid and the time and places covered by the permit.

Subd. 3. Application. Application for a permit must show (i) the name and address of applicant, (ii) the time and place for which permit is desired (iii) and the area of the premises for which application is made. The application must show that the applicant is of good moral character and supported by affidavits of two residents of the city. The application must be investigated by the chief of police and reported to the council before permit is granted.

1110.07. Restrictions. A permit may not be issued to:

- (a) a person who is not a resident of Hennepin County;
- (b) a person who is not of good character and reputation;
- (c) a person who is not a citizen of the United States;
- (d) a person who has been convicted of a felony;
- (e) a person who has been convicted of being the keeper or is keeping a house of ill-fame;
- (f) a person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- (g) a person whose permit under this subsection has been revoked for cause;
- (h) a person who at the time of application for renewal of any permit issued hereunder would not be eligible for such permit upon a first application;
- (i) a partnership, unless all of the members of the partnership shall be qualified to obtain a permit;
- (j) a corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a permit hereunder for any reason other than citizenship and residence within the political subdivision;
- (k) a person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required by the permit holder;
- (l) a person who has been convicted of a violation of a federal or state law concerning the manufacture, possession or sale of alcoholic liquor, or who has forfeited a bond to appear in court to answer charges for any such violation;
- (m) a person who does not own the premises for which a permit is sought, or does not have a lease thereof for the full period for which the permit is issued.

1110.09. Required conditions. The permitted premises:

- (a) must be zoned commercial;
- (b) may not be within 300 feet of a church or school;
- (c) must have sinks and other suitable equipment and hot and cold running water for the maintenance of sanitary conditions for persons on the premises;
- (d) must have adequate separate toilets (i) conveniently located so that they can be reached from the inside without having to go outside or through other building areas, (ii) equipped with hot and cold running water, individual towels and soap, and (iii) readily cleanable and are adequately heated, lighted and ventilated;
- (e) must be so located that no unusual safety hazards are presented to persons going to or from or being on the premises by reason of lighting or the design or location of stairways, windows, steps, doors, sidewalks, streets or parking facilities;
- (f) must have adequate emergency fire exit facilities and no unusual fire hazards; and
- (g) must have parking facilities.

1110.11. Restrictions. Subdivision 1. It is unlawful to permit dancing in a permitted premises in an indecent or immoral manner nor in a manner that is characterized by immodest motions of the body. It is unlawful to act or speak or permit acting or speaking in rude, boisterous, obscene, or indecent manner at premises holding a permit under this section.

Subd. 2. Light. Permitted premises must be brightly illuminated while in use and dancing therein while the lights are extinguished, dimmed, or turned low, so as to give imperfect illuminations is prohibited.

Subd. 3. Persons prohibited. No person to whom a permit is issued may allow in permitted premises (i) an intoxicated person (ii) a prostitute, (iii) a person of known immorality, (iv) an unmarried person under the age of 16 years, unless such person is accompanied by parent or guardian, or (v) any unmarried person more than 16, and under the age of 18 years, unless that person is accompanied by a parent or guardian or presents the written consent of parent or guardian to the officer in charge of the dance, and the written permit must be retained by such officer.

Subd. 4. Hours. Permitted activities may not be conducted between the hours of 1:00 and 6:00 a.m. of any day and on Sunday, before 12:00 noon.

Subd. 5. Liquor and beer. It is unlawful to bring, possess or furnish beer or liquor to a permitted premises.

Subd. 6. Inspection. A permitted premises must be kept open for inspection by the law enforcement officers of the city.

Subd. 7. Fee. The permit fee is set by Appendix B.

Section 1115 - Pet Shops

1115.01. Definition. For purposes of this section the term "pet shop" means a building, structure, enclosure, premises, tract of land or place where animals, birds, fish or other living creatures are sold to the public, offered for sale or kept for sale.

1115.03. License. Subdivision 1. General rule. It is unlawful to maintain, operate or engage in the business of operating a pet shop without a license.

Subd. 2. Application. A person desiring to operate a pet shop must apply for a license to the city clerk. The application must (i) contain the name of the applicant, (ii) the address at which the business is to be conducted, (iii) the types of animals, birds, fish or other living creatures which the applicant proposes to offer for sale and (iv) such other information as the council may require.

Subd. 3. Fee. The license fee is set by Appendix B.

1115.05. Inspection. Upon receipt of the application, the city manager must inspect the premises at which the business is proposed to be operated and report to the council what facilities have been provided for the keeping of the animals, birds, fish or other living creatures; what plumbing has been provided, whether the facilities provided are such as will prevent obnoxious odors spreading to other properties or public streets, and are adequate for sanitary operation of said business and the keeping of such animals, birds and fish and a suitable enclosure and free from disease.

1115.07. Granting of license. Upon receipt of the foregoing report and such further investigation or inspection as the manager may require, the council may grant a license. Licenses expire annually December 31.

1115.09. Revocation. If a licensee fails to keep the licensed premises in a clean and sanitary manner and free from obnoxious odors or from becoming a nuisance to the owners, occupants or other persons in possession of other property within the immediate vicinity of the business or to the public generally, the city council may revoke the license after giving ten days' notice to the licensee at the place of business for which license was granted.

Section 1120 - Transient Sales; Transient Merchant

(Deleted and replaced in its entirety, Ord. No. 19-02)

1120.01. Transient sales. Subdivision 1. Peddler/solicitor. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of advertising, selling or attempting to sell items that the person is carrying or otherwise transporting, or obtaining or attempting to obtain orders for products or services of which the person may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above.

Subd. 2. License required. No peddler or solicitor shall sell or offer for sale any goods, wares, merchandise, or services for immediate delivery within the City unless a license therefor shall be secured as provided in this section.

Subd. 3. License exemptions.

- (a) For the purpose of applying the requirements of this section, the terms peddler and solicitor do not apply to any person selling or attempting at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also do not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on the person's established regular delivery route.
- (b) No license shall be required for the following:
 - (1) No license is required for any person to sell the products of the farm or garden occupied and cultivated by that person.
 - (2) No license is required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's state or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
 - (3) Professional fundraisers working on behalf of an otherwise exempt person or group are exempt from the licensing requirements of this chapter.

Subd. 4. License application and issuance. Application for such license shall be made to the City Clerk on a form supplied by the City. All applications shall be made to the city at least 30 business days before the applicant desires to begin conducting business. The application shall include:

- (a) Applicant's full legal name.
- (b) All other names under which the applicant conducts business or to which applicant officially answers.
- (c) Full address of applicant.
- (d) Telephone number of applicant's permanent residence.
- (e) Full legal name of any and all business operations owned, managed, or operated by applicant, for which the applicant is an employee or agent.
- (f) Full address of applicant's regular place of business (if any).
- (g) Any and all business-related telephone numbers of the applicant.
- (h) The type of business for which the applicant is applying for a license.
- (i) Any and all addresses, telephone numbers, and email addresses where the applicant can be reached while conducting business within the city.
- (j) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
- (k) A list of all cities where the applicant has conducted business as a peddler/solicitor in the past two years.
- (l) A general description of the items to be sold or services to be provided.
- (m) All additional information deemed necessary by the city.
- (n) The applicant's valid government-issued identification or driver's license or other acceptable form of identification.
- (o) The license plate number, registration information, and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

Subd. 5. License ineligibility. The following are grounds for denying a license under this section:

- (a) The failure of the applicant to truthfully provide any of the information requested by the city as part of the application, or the failure to sign the application, or the failure to pay the required application fee at the time of the application.
- (b) The conviction of the applicant who has not shown sufficient evidence of rehabilitation pursuant to Minnesota Statutes, section 364.03 for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety and welfare of the residents of the city. Such violations include but are not limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- (c) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler or solicitor.
- (d) The applicant or company that the applicant is representing is determined to have a bad business reputation. Evidence of a bad business reputation includes, but is not limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months.
- (e) Prior violations of this section.
- (f) Conducting business without the required license.
- (g) A determination of previous fraudulent acts or conduct.
- (h) A record of continual breaches of solicited contracts.
- (i) Any prior revocations or suspensions of peddler or solicitor licenses in any other city within the past five years.

Subd. 6. Police investigation. Every application shall be reviewed by the Chief of Police and a background check shall be conducted to determine whether the merchant has a valid driver's license (if applicable) and assure that there are no active warrants.

Subd. 7. License fees. Fees for licenses shall be set forth in Appendix B. Fees shall include an application fee, which includes the cost of initial investigation. The City Council may waive fees at its discretion.

Subd. 8. Duration of license. No license may extend beyond the 31st day of December of the year in which it is granted.

Subd. 9. License not transferable. All licenses shall be nontransferable. No refunds shall be made on unused portions of licenses except by resolution of the City Council. Each peddler shall secure a separate license.

Subd. 10. License to be carried. All licenses shall be carried by the licensee and the license shall be exhibited to any officer or citizen upon such officer's or citizen's request.

Subd. 11. License revocation.

- (a) Any license issued under this section may be suspended or revoked for any of the following:
- (1) Fraud, misrepresentation, or incorrect statements on the application form.
 - (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity.
 - (3) Conviction of any offense for which granting of a license could have been denied pursuant to this section.
 - (4) Violation of any provision of this section.
- (b) *Notice.* Prior to revoking or suspending any license issued under this section, the city must provide the license holder with written notice of the alleged violations and inform the licensee of the licensee's right to a hearing on the alleged violation. Notice must be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.
- (c) *Administrative hearing.* Upon receiving the notice provided herein, the licensee has the right to request an administrative hearing. If no request for a hearing is received by the city within 14 regular business days following the service of the notice, the city may proceed with the suspension or revocation summarily. For the purpose of mailed notices, service is considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing must be scheduled within 30 days from the date of the request. If the Hearing Officer determines that a violation of this chapter did occur, that decision, along with the Hearing Officer's reasons for finding a violation and the penalty to be imposed, must be recorded in writing, a copy of which must be provided to the licensee. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings must be in writing and a copy provided to the licensee.
- (d) *Emergency.* If, in the discretion of the city, imminent harm to the health or safety of the public may occur because of the actions of a peddler or solicitor licensed under this section, the city may immediately revoke the person's license and provide notice of the right to hold a subsequent administrative hearing as required herein.

- (e) *Appeals.* The final decision of the administrative Hearing Officer is appealable by petitioning the Minnesota court of appeals for a Writ of Certiorari.

Subd. 12. Practices prohibited. It is unlawful for a peddler or solicitor to conduct business in any of the following manners:

- (a) Calling attention to the person's business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- (b) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- (c) Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or to the general public.
- (d) Conducting business before 9:00 a.m. or after 8:00 p.m.
- (e) Failing to properly display approved license identification in plain view attached to the outer clothing and provide proof of license and identification, when requested.
- (f) Using the license of another person.
- (g) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. It is unlawful for a peddler or solicitor to claim to have the endorsements of the city solely based on the city having issued a license or certificate of registration to that person.
- (h) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

Subd. 13. Exclusion by placard. It is unlawful for a peddler or solicitor, unless expressly invited to do so by the property owner or tenant, to enter the property of another for the purpose of conducting business as a peddler or solicitor when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. It is unlawful for a person other than the property owner or tenant to remove, deface or otherwise tamper with any sign or placard under this section.

Subd. 14. Canvasser.

- (a) A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or from place-to-place when such activity is for the purpose of exercising that person's constitutional rights such as freedom of speech, press, or religion is a canvasser except when the person's exercise of these constitutional rights is merely incidental to a commercial activity.

- (b) A canvasser is exempt from the licensing requirements of this subsection, but all other requirements of subsection 1120.01 shall apply.
- (c) Before engaging in any of the activities of a canvasser, a canvasser is required to register with the city on a form provided by the City. Immediately upon completion of the registration form, the City shall issue the registrant proof of the registration.
- (d) No fee is required for registration under this subdivision.

Subd. 15. Hours. A peddler, solicitor or canvasser may not undertake such person's activities except between the hours of 9:00 a.m. to 8:00 p.m.

1120.03. Transient merchant. Subdivision 1. License required. The owner or operator of a vehicle that is used to dispense or vend confections or other goods directly from the vehicle may not do so without a license. This subsection does not apply to persons using vehicles for the delivery of goods or services directly to homes or establishments where the goods are taken by the operator of the vehicle onto private property for delivery, or to the operations of political subdivision. The term "vehicle" means a mobile unit, portable tent, portable trailer, or any similar type unit being used on the public streets for the purpose of vending or dispensing. Exterior sales are also limited by zoning code.

Subd. 2. Application. Application for a license is made to the Clerk. The application must describe the vehicle or vehicles from which the vending operations will be carried on, the requested duration of the vending operations, and give the names of the persons interested in the business. The applicant must describe the type of confections or other goods which will be sold from the vehicle. Licenses expire annually on December 31. The license fee is set by Appendix B.

Subd. 3. Hours, routes and noise. A transient merchant may not carry on the vending operations except between the hours of 9:00 a.m. to 8:00 p.m. More than ten days before commencement of operations the transient merchant must file with the Chief of Police a proposed route or routes or location over which the vehicles will travel or be located each day. The transient merchant must follow such route or location while operating in the City. Proposed changes must be filed with the Chief of Police at least ten days in advance. If the Chief disapproves of the proposed routes or location, the transient merchant may appeal the ruling to the City Council. Approved routes or locations must minimize the hazard to customers of the vehicle and which minimize traffic difficulties which may arise out of such operations. The use of a radio device, mechanical device, loudspeaker or device casting sound upon the public streets in conjunction with such vending or dispensing requires a permit under this code.

Subd. 4. Safety requirement. Vehicles must be parked at the curbside or other approved location while engaged in vending operations. Vending may be done only at the curbside of the vehicle. The applicant must provide a certificate of insurance with the City with public liability insurance of not less than \$2,000,000 combined single limit issued by an insurance company authorized to do business in the state of Minnesota. The policy must provide that it may not be cancelled by the issuer except upon ten days' written notice to the City. If the insurance is cancelled the license or permit will be automatically suspended until the insurance is replaced. No transient merchant shall use a motor vehicle for such person's activities unless such person maintains a valid driver's license.

1120.05 Certain Transient Merchants. Subdivision 1. A state-licensed mobile food unit dispensing and vending at a temporary fixed location is subject to the requirements of this subdivision. A mobile food unit can be a motorized vehicle or trailer-mounted food establishment.

(a) License required. The owner or operator of a mobile food unit may not dispense food to the public without a license. Mobile food unit sales which meet the definition of a food truck are also regulated by city's zoning code. Each license is valid for only the specified dates. The license fee is set by Appendix B.

(b) Application. Application for a license is made to the Clerk. The license application must also include the dates, description of vehicles used, description of food items, location and site plan for set up, a copy of the state license(s), a safety plan, and written authorization from the property owner where the mobile food unit will be located.

(c) Noise. The use of a radio device, mechanical device, loudspeaker or device casting sound upon the public streets in conjunction with such vending or dispensing requires a permit under this code.

(d) Hours and Locations. The city establishes the hours of operation and the duration of occupancy. Exterior sales are allowed at locations permitted by the zoning code. City council approval is required for dispensing and vending in a city park.

(e) Insurance. No transient merchant shall use a motor vehicle unless such person maintains a valid driver's license. A mobile food unit proposed to be located on city property must provide a valid certificate of insurance to the City with public liability insurance of not less than \$2,000,000 combined single limit issued by an insurance company authorized to do business in the state of Minnesota.

1120.07. Going out of business sales. Subdivision 1. For purposes of this subsection the terms defined in this subdivision have the meanings given them.

- (a) "Advertise" means the use of any means, whether oral, written, lettered or by picture, used to give notice of intention to conduct a sale or to advertise merchandise for sale at such sale; the term includes, but is not limited to, oral announcement made at the place of sale, or oral announcement by sound truck or by radio or television, by written, printed or pictured notice, by newspaper advertisement, magazine advertisement, handbill, printed display, poster, label, price tag, circular, pamphlet or book.
- (b) "Merchandise" means goods, wares and merchandise usually sold for consumption.
- (c) "Sale" or "regulated sale" means a sale or offer to sell to the public merchandise on hand and in stock, in connection with a declared purpose, as set forth by advertising on the part of the seller that such sale is:

- (1) anticipatory to the termination, closing, liquidation, windup-discontinuance, conclusion or abandonment of the business and advertised in the following phrases or in any other phrase or phrases of like or similar language which reasonably convey to the public that the sale is being conducted for such purpose: "going out of business sale", "trustee's sale", "liquidation sale", "executor's sale", "administrator's sale", "adjustment sale", "reorganization sale", "creditor's sale", "creditor's committee sale", "assignee's sale", "receiver's sale", "loss of lease sale", "forced out of business sale", "removal sale". A "removal sale" is a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the City or will then continue business from other existing locations in the City.
- (2) a result of damage or alteration to the merchandise being offered for sale by disaster or other fortuitous occurrence, and advertised in the following phrases and in any other phrases or phrases of like or similar language which reasonably convey to the public that the sale is being conducted as a result of such occurrence: "fire sale", "insurance salvage sale", "damaged goods sale", "smoke sale", "water damage sale".

Subd. 2. Exception: actual disaster sale. This subsection does not apply to a sale held by a regularly established retail or wholesale merchant at a regular place of business, provided that such sale is held for not over ten days during the period of 45 days immediately following actual damage to the merchant's stock or goods by fire, water, smoke or other chance circumstance. A permit issued by the clerk is required for such a sale. The permit fee is set by Appendix B.

Subd. 3. Exception: regular sale of damaged goods consigned from insurance companies. This subsection does not apply to a person who has and maintains a permanently established place of business solely confined to the sale or property damaged by fire, water, smoke, or other chance circumstance, which property is taken on consignment directly from insurance companies who have taken such property as settlements of losses, and who does not advertise in the terms used in the definition of "sale" in subdivision 1.

Subd. 4. License required. It is unlawful to advertise or conduct a regulated sale without a license.

Subd. 5. Application for license. A person desiring to advertise and conduct a regulated sale must apply to the clerk. The application must be in writing and in the name of the true owner of the merchandise to be sold. The application must state:

- (a) the name and address of the applicant, together with the names and addresses of all individuals who are members of the partnership, association or firm making such application and of all officers of any corporation making the application;
- (b) the type of sale to be conducted and the reason for conducting the sale;

- (c) the address at which the sale will be held;
- (d) the nature of the occupancy of the premises where the sale is to be held, whether by lease or sublease, and the date of termination of such occupancy;
- (e) whether or not the applicant has held a regulated sale at the premises referred to in the application in the one year period preceding the date of the application;
- (f) the date of acquisition by the applicant of the business with respect to which the sale is to be held;
- (g) the names and addresses of the individuals who will have charge of the sale;
- (h) an inventory containing:
 - (1) A legible, orderly, detailed, complete and accurate descriptive list of the merchandise to be offered for sale which inventory shall include only merchandise owned by the applicant which applicant expects to include in such sale located on the premises where the sale is to be held and in warehouses. The inventory may include all goods which have been purchased by the applicant for resale on bona fide orders without cancellation privileges and may not comprise goods purchased on consignment. The inventory may not include goods ordered in contemplation of conducting a regulated sale. Any purchase or additions made within 90 days immediately prior to the filing of an application which increases the inventory beyond the average inventory for 12 full and successive months next preceding the application is deemed an unusual purchase or addition and made in contemplation of having a sale as regulated by the terms of this chapter; provided, however, that in determining the average monthly inventory seasonable purchases and inventories will be considered and adjusted.
 - (2) Insofar as reasonably possible on the basis of available record data regularly kept by the applicant, the dates of acquisition of the merchandise, the names and addresses of the persons from whom obtained, and the manner of acquisition. The inventory must contain the cost price of the merchandise to be sold, and the regular price at which the merchandise was sold prior to the making of the application. The application and the inventory must be verified in duplicate under oath by the individual making the application or by a member of the partnership making the application or by the general managing officer or agent of the association, joint enterprise, firm or corporation, making the application, and must be filed in duplicate with the clerk.

Subd. 6. Limitations. A person who has not been the owner of a business described in the application for a period of at least six months prior to the date of application may not be granted a license. A person who has held a regulated sale at the location designated in the application within one year last past from the date of the application may not be granted a license. If a person applying for a license operates more than one place of business the license issued applies to only the one store or branch specified in the application, and no other store or branch may advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor may the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in the regulated sale.

Subd. 7. License fee: term: renewals. The license fee is set by Appendix B. The license is granted by the council. Licenses are for a period of not to exceed 30 days. Upon proof that all of the merchandise listed in the inventory attached to the original application has not been disposed of and that no items of merchandise not listed in the inventory have been or are to be sold at the sale, the clerk must investigate the truthfulness of the application and the supporting data, and recommend to the council the granting or denial or a renewal, and the renewal may be for no more than 30 days. The fee for a renewal is set by Appendix B. If a second renewal for 30 days is applied for, the fee for such renewal is set by Appendix B for each day of such sale to defray the cost of daily supervision by the clerk during the period of the sale.

Subd. 8. Proof required. Renewal applications are made to the clerk and must be accompanied by an inventory containing a legible, orderly, detailed, complete and accurate descriptive list of the merchandise then on hand unsold. The renewal application and accompanying inventory must be executed and verified under oath by the individual making the application, or by a member of the partnership making the application, or by the general managing officer or agent of the association, joint enterprise, firm or corporation making the application.

Subd. 9. Renewals. Applications for renewals must be made not less than ten days prior to the expiration of the existing license. No more than two renewals may be granted for a regulated sale at the same location.

Subd. 10. Conditions of license. The license is subject to the following conditions:

- (a) the sale shall be conducted on the premises specified in the application, during the period of the license and any renewals thereof, and no longer;
- (b) merchandise not described in the inventory may be added to or included with that specified in the inventory furnished with the application and offered for sale at the sale: each sale of merchandise not included in the inventory constitutes a separate violation of this condition;
- (c) the sale must be advertised and conducted in the name of the licensee only and no reference to the reasons for the sale may be advertised unless the reasons must be in conformity with those stated in the application and will be applicable to the licensee at the time of such advertisement;

- (d) the license must be conspicuously displayed during the duration of the sale near the entrance to the premises where the sale is being held;
- (e) a duplicate original of the application and inventory pursuant to which the license was granted, must be available at the premises where the sale is being held to the officers and agents of the city and the licensee must permit city officials to examine all merchandise on the premises for comparison with the inventory;
- (f) at the close of business each day there must be noted on the inventory attached to such duplicate original application the items disposed of during that day;
- (g) suitable books and records must be kept by the licensee and available at all times to the officers and agents of the city;
- (h) an advertisement may not contain any assertion, representation or statement of fact which is untrue, deceptive or misleading as to the ownership of the merchandise, the source from which it was obtained, the quantity, nature, condition or quality thereof, or the value or price thereof, or the savings or discounts offered with respect thereto, and, if any price comparisons or percentages of savings or discounts are quoted in any advertisement, such savings or discounts must be computed upon the prices stated in the inventory with respect to the items referred to in such advertisement; provided, however, that no comparison in either general or specific terms may be made in any such advertisement with respect to either the regular wholesale or regular retail prices of any merchandise unless the regular wholesale or regular retail price of such merchandise so referred to is stated in the inventory attached to such application;
- (i) the licensee must promptly at the conclusion of a regulated sale file with the clerk's office a true inventory of all merchandise, if any, then remaining unsold.

Subd. 11. License to refrain for six months. A person who has conducted a regulated sale may not engage in the same type of business at a location within a distance of one-half mile measured from front entrance of previous place of business within a period of six months after the termination date of the regulated sale.

Subd. 12. Sheriff's sales, etc., excepted. This subsection does not apply to the advertisement or conduct of sales by sheriffs, constables, marshals or other public or court officers in the performance of their official duties as such, or to trustees in bankruptcy, or any other person or persons acting under the direction or authority of any court, state or federal, selling merchandise in the course of their official duties.

Subd. 13. Each day a separate offense. Each day of conduct of a regulated sale without a license is a separate offense.

Section 1125 - Taxis

1125.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Taxicab" means and includes a motor vehicle engaged in the carrying of persons for hire, whether over a fixed route or not, and whether the same be operated from a street stand or subject to calls from a garage, or otherwise operated for hire, except private auto liveries; the term does not include vehicles subject to control and regulation by the state public utilities commission or vehicles regularly used by undertakers in carrying on their business.

Subd. 3. "Taxicab driver" means and includes a person who drives a taxicab, whether such person is the owner of the taxicab or is employed by a taxicab owner or operator.

Subd. 4. "Operator" means and includes a person owning or having control of the use of one or more taxicabs used for hire upon the streets or engaged in the business of operating a taxicab in the city.

Subd. 5. "Taxicab stand" means and includes a place along a curb or street or elsewhere that is exclusively reserved by the city for the use of taxicabs.

Subd. 6. "Taximeter" means and includes a mechanical instrument or device by which the charge for hire of a taxicab is mechanically calculated, by distance traveled or waiting time, or by both, and upon which the charge is indicated.

Subd. 7. "Private auto livery" means an automobile used to carry persons for hire other than by solicitation of business by cruising about the streets.

1125.03. (Repealed, Ord. No. 2000-01)

1125.05. (Repealed, Ord. No. 2000-01)

1125.07. Identification of vehicle. A taxicab that solicits or accepts business or stands, or waits for hire, must have some suitable designation of the character of the vehicle painted in plain visible letters on each side thereof.

1125.09. Rates, meters. A licensed taxicab must be equipped with a meter to record fares to be charged. The meter must be kept accurate and in good working condition and in plain view of passengers. The rate or rates to be charged for conveyance in taxicabs must be conspicuously posted in or on the vehicle. (Amended, Ord. No. 2000-01)

1125.11. (Repealed, Ord. No. 2000-01)

1125.13. (Repealed, Ord. No. 2000-01)

1125.15. (Repealed, Ord. No. 2000-01)

1125.17. Miscellaneous regulations. Subdivision 1. Taxicab drivers must be clean and courteous at all times.

Subd. 2. A driver of a taxicab may not carry any other than the passenger first employing a taxicab without the consent of such passenger. (Amended, Ord. No. 2000-01)

Subd. 3. An operator may not charge or attempt to charge any passenger a greater rate of fare than that which is posted in the vehicle. (Amended, Ord. No. 2000-01)

Subd. 4. A taxicab driver may not deceive an actual or prospective passenger, as to the driver's destination or distance traveled or to be traveled.

Subd. 5. Taxicabs must be provided with windows in the rear seating compartment sufficient in number and of such size and dimensions that at all times persons may be readily seen through the windows with sufficient distinctness to identify the person.

Subd. 6. The taxicab drivers or any taxicab operator on duty must maintain clean apparel. (Amended, Ord. No. 2000-01)

Subd. 7. There must be displayed in a taxicab in full view of any passenger a clearly lettered identification card which will include the name of the taxicab driver, the name of the taxicab operator, the taxicab number and a picture of the taxicab driver.

1125.19. Passenger pick-up. Subdivision 1. Licensed by other cities. A taxicab licensed to operate in another political subdivision of this state including the Minneapolis-St. Paul International Airport may carry passengers to any place or point, within the city and may solicit or pick up business within the city. (Amended, Ord. No. 2000-01)

Subd. 2. Soliciting passengers. A taxicab driver licensed to operate in another political subdivision in this state, including the Minneapolis-St. Paul International Airport may carry passengers from that political subdivision into the city and may freely enter and travel upon its streets and thoroughfares for that purpose, and it is not necessary for the driver to obtain a Robbinsdale taxicab driver's license. While in the city the driver must observe the operating regulations and conditions of this subsection. (Amended, Ord. No. 2000-01)

Section 1130 - Miscellaneous Activities

1130.01. Car washes. Subdivision 1. Definition. The term "car wash" or "car washes" means an establishment operated for profit where cars are washed either mechanically or manually: the term includes establishments in which coin-operated facilities are available for washing cars.

Subd. 2. License required. It is unlawful to operate a car wash without a license. The license is in addition to all other licenses required by this code.

Subd. 3. Application. Application for a license is made to the clerk. The application must be accompanied by the license fee and by the certificate of insurance as required by this subsection.

Subd. 4. Insurance. The applicant must provide a certificate of insurance with the city with public liability insurance of not less than \$1,000,000 combined single limit issued by an insurance company authorized to do business in the state of Minnesota. The policy must provide for the giving of ten days' prior written notice to the city of the termination or cancellation of the policy. The license fee is set by Appendix B. Licenses expire annually on December 31. (Amended, Ord. No. 03-22)

Subd. 5. General regulations.

- (a) The licensee must keep the premises of the car wash free from debris and waste materials. The licensee must remove debris and waste materials to be removed during each 24 hour period and as often as may be necessary to prevent debris or waste materials from being blown to nearby streets and premises.
- (b) It is unlawful to place or leave debris or waste materials upon the premises of a car wash unless the debris or waste materials be placed in a waste receptacle provided on the premises for such purposes.
- (c) Loudspeakers may not be used on the premises for communications with customers or employees and juke boxes, radios, or other musical devices are not permitted on the premises. This provision does not prohibit the use, on the premises, of radios installed in motor vehicles of customers, but no person may use such a vehicle radio upon the licensed premises if the volume of sound from such radio is audible more than ten feet from the vehicle in which the radio is installed.

- (d) It is unlawful to race the engine of a motor vehicle, cause any horn to be blown except as a traffic warning, or cause any disturbance or loud noise on or nearby the licensed premises.
- (e) It is unlawful on the licensed premises for a person to drink, have in possession or under control, or offer or give to another person to drink any alcoholic beverage as defined in chapter XII.
- (f) The premises of a car wash must be kept adequately lighted when open to the public. Lights must be kept adequately shaded or otherwise regulated so as to prevent them from shining upon adjacent premises.
- (g) It is unlawful to loiter and the licensee may not permit persons to loiter upon the premises if such persons are not engaged in washing cars.
- (h) The licensee must maintain quiet and order upon the premises. The licensee must see that entrances and exits and abutting alleys are kept free from congestion.
- (i) It is unlawful to keep a car wash open for business between the hours of midnight and 7:00 a.m.

Subd. 6. Suspension and revocation of licenses. Violation of this subsection is grounds for revocation or suspension up to 60 days after notice and hearing.

1130.03. (Deleted, Ord. No. 96-08, Sec. 1)

1130.05. Christmas tree sales. Subdivision 1. Licenses required. It is unlawful to give away, or trade, barter or sell at retail, any cut evergreen, fir, spruce, pine, or other tree of like kind, for use as what is generally known and described as a Christmas tree, without a license. This subsection does not apply to the use of ornamental trees having a height of less than 36 inches which are fireproofed and sprayed with coloring and used by florists in their decorative schemes.

Subd. 2. Application. An applicant for a license must file with the city clerk a written application therefor, stating a correct name, address and place of intended sale of such Christmas trees. If the operation of the business requires electrical work or construction of any kind, the applicant must arrange for the simultaneous filing of an application for a building, electrical or other required permit, including payment to the city clerk of the required fee or fees therefor; in such case the license may not be granted until the application has been approved by the building inspector.

Subd. 3. License fee. The license fee is set by Appendix B. Licenses expire annually on December 31. The license fee may not be prorated.

1130.07. (Deleted, Ord. No. 17-09)

1130.09. Auto dealer (new or used): state licensing law. Subdivision 1. Adopted by reference. Minnesota Statutes, chapter 168 is adopted by reference and made a part of this code as if fully set forth herein. A violation of the provisions of the statutes adopted by reference herein is a violation of this code.

Subd. 2. State license required. It is unlawful to engage in the business of:

- (a) new motor vehicle dealer,
- (b) used motor vehicle dealer,
- (c) motor vehicle broker,
- (d) motor vehicle wholesaler, or
- (e) motor vehicle auctioneer,

as those terms are defined by state law, without a current state license therefor. A person holding the license must file a copy of the current state certificate of license with the city clerk who must maintain a register of the licenses. Failure of a licensee to supply the city clerk with a copy of a current state license is a violation of this code.

1130.11. Gasoline service stations. Subdivision 1. General rule. It is unlawful to operate a gasoline service station without a license or contrary to the provisions of this subsection.

Subd. 2. Defined. For purposes of this subsection the term "gasoline service station" means a premises where the business of furnishing and selling gasoline and lubricating oils and accessories for motor vehicles is conducted.

Subd. 3. Application: fee. Applications for a gasoline service station license are made to the clerk. The license fee is set by Appendix B. Licenses expire annually on December 31. Licenses are not transferable. License renewal is subject to the license provisions described in section 1005 Licensing Procedures. (Amended, Ord. No. 02-05)

Subd. 4. Other conditions. Underground storage tanks at a gasoline service station must be installed in accordance with section 910 of this code. Gasoline or other flammable liquids may not be dispensed in open containers. Open flames are prohibited in the licensed premises. Gasoline may not be dispensed to a motor vehicle whose motor is running.

Section 1132 - Tobacco and Related Products
(Added, Ord. No. 96-08)

1132.01. Definitions. Where used in this section, the following terms have the following meanings:

- (a) “Child-resistant packaging” means packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015. (Added, Ord. No. 17-14)
- (b) “Cigar” means any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minnesota Statutes, section 297F.01, subdivision 3, as may be amended from time to time. (Added, Ord. No. 17-14)
- (c) “Compliance checks” means the system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this section. Compliance checks involve the use of persons under the age of 21 who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the city or other units of government for educational, research, or training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to licensed products. (Added, Ord. No. 17-14; Amended, Ord. No. 19-03)
- (d) “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose. (Added, Ord. No. 17-14; Amended Ord. No. 19-03)
- (e) “Flavored product” means any licensed product that contains a taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, that is distinguishable by an ordinary consumer either prior to or during consumption of the licensed product, including, but not limited to, tastes or aromas of chocolate, vanilla, honey, cocoa, or any candy, dessert, alcoholic beverage, fruit, herb, or any spice. A public statement or claim made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate such statements or claims concerning such products, that a product has or produces a taste or aroma other than tobacco may be one of the methods used to determine that the product is a flavored tobacco product and creates a rebuttable presumption that the product is a flavored product. (Added, Ord. No. 17-14; Amended Ord. No. 19-03)

- (f) “Licensed products” collectively refers to any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product. (Added, Ord. No. 17-14)
- (g) “Movable place of business” means any form of business operated out of a kiosk, 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. (Added, Ord. No. 17-14)
- (h) “Nicotine or lobelia delivery product” means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation or for other medical purposes, and is being marketed and sold solely for that approved purpose. (Amended, Ord. No. 17-14)
- (i) “Retail establishment” means any place of business where licensed products are available for sale to the general public. The phrase includes but is not limited to grocery stores, tobacco products shops, convenience stores, gasoline service stations, bars, and restaurants. (Added, Ord. No. 19-03)
- (j) “Self-service merchandising” means a method of displaying licensed products so that they are accessible to the public without the intervention of an employee. (Amended, Ord. No. 17-14)
- (k) “Tobacco dealer” means a retail establishment that has a tobacco department or section of an individual business establishment where smokeless tobacco, hookah, loose tobacco, cigarettes and/or cigars are available for sale over the counter. (Added, Ord. No. 19-11)
- (l) “Tobacco product” means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to cigarettes, cigars, cheroots, stogies, perique, granulated, plug-cut, crimp-out, ready-rubbed, and other smoking tobacco; snuff, snuff flower, cavendish, plug and twist tobacco; fine cut or other chewing tobaccos; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco product does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. (Amended, Ord. No. 98-07; Amended, Ord. No. 17-14)

- (m) “Tobacco products shop” means a retail establishment that
- (1) Prohibits persons under 21 from entering at all times;
 - (2) Derives at least 90 percent of its gross revenues from the sale of licensed products; and
 - (3) Meets all of the following building or structural criteria:
 - (i) Shares no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, or pass-throughs to the other business or retailer;
 - (ii) Shares no wall with and has no part of its structure directly adjoined to another licensed tobacco retailer; and
 - (iii) Is accessible by the public only by an exterior door.

(Added, Ord. 19-11)

- (n) “Tobacco-related device” means any pipe, rolling papers, wraps, or other device intentionally designed or intended to be used with tobacco products. Tobacco-related device includes components of tobacco-related devices which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco. (Added, Ord. No. 17-14; Amended Ord. No. 19-03)
- (o) “Vending machine” means any mechanical, electrical or electronic, or other type of device which, upon inserting money, tokens or any other form of payment, dispenses licensed products. (Amended, Ord. No. 98-07; Amended, Ord. No. 17-14).

1132.03. License required/limitation on number of licenses. No person shall directly, by coin machine, or otherwise, keep for retail sale, sell at retail, or otherwise furnish, any licensed products at any place in the city unless they have obtained a license therefore as provided herein. (Amended, Ord. No. 13-08; Amended, Ord. No. 17-14; Amended, Ord. No. 19-11)

The total number of Tobacco Products Shop licenses issued by the city shall be limited to two (2). The total number of Tobacco Dealer licenses shall be limited to eleven (11). Establishments or locations holding licenses on the effective date of this ordinance shall not be affected by these limitations subject to conditions under which a license would be revoked. (Added, Ord. No. 19-11)

1132.05. Application and issuance. Application for such license shall be made to the city clerk and shall state the full name and address of the applicant, the location of the building to be occupied by the applicant in the conduct of the business, the kind of business to be conducted, and such other information as the city clerk may require. The application shall be presented to the city council for its consideration, and if granted by the council, a license will be issued by the city clerk upon payment of the required fee.

1132.06. Basis for denial of license. (Added, Ord. No. 17-14)

- (a) Grounds for denying the issuance or renewal of a license include, but are not limited to, the following: (Added, Ord. No. 17-14)
 - (1) The applicant is under 21 years of age. (Added, Ord. No. 17-14)
 - (2) 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 licensed products. (Added, Ord. No. 17-14)
 - (3) The applicant has had a license to sell licensed products suspended or revoked within the preceding 12 months of the date of application. (Added, Ord. No. 17-14)
 - (4) The applicant fails to provide any information required on the application, or provides false or misleading information. (Added, Ord. No. 17-14)
 - (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license. (Added, Ord. No. 17-14)
 - (6) Applicant is acting as an agent or pass through for another person or entity whose prior acts violated subsections (a) 1, 2, 3, or 4 above or who is otherwise prohibited from holding a license under any applicable rule or law. (Added, Ord. No. 17-14)
- (b) 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.
- (c) If a license is mistakenly issued or renewed to a person, it may be revoked upon the discovery that the person was ineligible for the license under this ordinance. Notice of the revocation will be given to the person along with information on the right to appeal.

1132.07. License fee. The fee for a license is set by Appendix B.

1132.09. Term. The issuance of license is a privilege and does not entitle the holder to an automatic renewal of the license. Licenses expire annually on December 31. Licenses are not transferable. License renewal is subject to the license provisions described in section 1005 Licensing Procedures. (Amended, Ord. No. 02-05; Amended Ord. No. 17-14)

1132.11. License displayed. The license must be kept conspicuously posted on the premises for which the license is issued and must be exhibited to any person upon request.

1132.13. Location. (Amended, Ord. No. 17-14; Amended, Ord. No. 19-11))

- (a) A license will not be issued to a movable place of business. Only fixed location businesses are eligible to be licensed and separate licenses are required for each location.

- (b) Zoning: Tobacco Products Shops must be located in a B4 Community Business Zoning District. Tobacco Dealers must be located in B3 Highway Commercial or B4 Community Business Zoning Districts. (Added, Ord. 19-11)
- (c) Proximity to other tobacco products shops. No license shall be granted to any person for a tobacco products shop that is within one half mile of any other tobacco products shop, as measured by the shortest distance measured from front entrance to front entrance along normal pedestrian routes along sidewalks and streets. This restriction does not apply to an applicant who has been licensed to sell licensed products in the same location for at least one year before the date this section was enacted into law. (Added, Ord. 19-11)

1132.15. Prohibited acts.

- (a) In general. No person shall sell or offer to sell any licensed product:
 - (1) Containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other controlled substance or deleterious or poisonous drug, except nicotine. (Amended, Ord. No. 17-14)
 - (2) By means of any type of vending machine. (Amended, Ord. No. 17-14)
 - (3) By means of any type of self-service merchandising whereby the customer may have access to those items without having to request the item from the licensee or licensee's employee and whereby there is not a physical exchange of the licensed product between the licensee or licensee's employee and the customer. All licensed products must be stored behind the sales 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 licensed products at the time this subsection is adopted must comply with this subsection within 90 days of its effective date. (Added, Ord. No. 17-14)
 - (4) 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. (Added, Ord. No. 17-14)
- (b) Legal age. No person shall sell any licensed product to any person under the age of 21. (Added, Ord. No. 17-14; Amended Ord. No. 19-03)
 - (1) Age verification. Licensees must verify by means of proof of age described in Minnesota Statutes, section 340A.503, subdivision 6, paragraph (a) that the purchaser is at least 21 years of age. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this ordinance. (Added, Ord. No. 17-14; Amended Ord. No. 19-03)

- (2) Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase. (Added, Ord. No. 17-14; Amended, Ord. No. 19-03)
- (c) Flavored products. No person shall sell or offer for sale any flavored products. This restriction does not apply to Tobacco Products Shops. (Amended, Ord. No. 19-03; Amended, Ord. No. 19-11)

Any retailer that sells flavored products must provide to the city, upon request, such financial records that document annual total sales and sales of licensed products. (Added, Ord. No. 17-14; Amended, Ord. No. 19-11)

- (d) Electronic Delivery Device Sales. No person shall sell or offer for sale any electronic delivery device or e-liquid to any person unless the sale is on the premises of Tobacco Products Shops. (Added, Ord. No. 19-03; Amended, Ord. No. 19—11)

Any retailer that sells electronic delivery products must provide to the city, upon request, such financial records that document annual total sales and sales of licensed products. (Added, Ord. No. 19-03)

- (e) Cigars. No person shall sell, offer for sale, or otherwise distribute cigars in original packages containing three or fewer cigars for a sale price, after any coupons, multipack or buy-one-get-one promotions, or any other discounts are applied prior to applicable sales taxes being imposed of less than \$2.60 per cigar contained within. In addition, no person shall sell, offer for sale or otherwise distribute cigars in original packages of four or more cigars for a sale price, after any coupons, multipack or buy-one-get-one promotions, or any other discounts are applied prior to applicable sales taxes being imposed, of less than \$10.40 per package. (Added, Ord. No. 17-14)
- (f) Liquid packaging. No person shall sell or offer for sale any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, that is not contained in child-resistant packaging. Upon request, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packing used. (Added, Ord. No. 17-14)
- (g) Responsibility. All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. Nothing in this section shall be construed as prohibiting the city from also subjecting the employee to any civil penalties that the city deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation. (Added, Ord. No. 19-03)

1132.17. Other illegal acts. (Amended, Ord. No. 17-14)

- (a) Illegal procurement. It shall be a violation of this section for any person 21 years of age or older to purchase or otherwise obtain licensed products on behalf of a person under the age of 21. (Amended, Ord. No. 13-08; Amended Ord. No. 17-14; Amended Ord. No. 19-03)
- (b) Use of false identification. It shall be a violation of this section for any person to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one 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. (Amended Ord. No. 19-03)

1132.19. Violations.

- (a) Misdemeanors. Any person aged 21 years or older, who violates this section shall be guilty of a misdemeanor. (Amended Ord. No. 19-03)
- (b) Administrative civil penalties; individuals. Any person, other than individuals regulated by paragraph (c) of this subsection, found to be in violation of this section is subject to an administrative penalty. No penalty shall be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the city manager or the city manager's designee. Notice is deemed received when sent to last known address. A decision that a violation has occurred shall be in writing. The city council may impose administrative penalties as follows: (Amended, Ord. No. 17-14)

First violation: The city council may impose a civil fine of not less than \$50 nor more than \$500.

Second violation within 12 months: The city council may impose a civil fine of not less than \$50 nor more than \$750.

Third violation within 12 months: The city council may impose a civil fine of not less than \$50 nor more than \$1,000. (Amended, Ord. No. 98-07, Amended, Ord. No. 13-08)

- (c) Persons under the age of 21. Persons under 21 years of age who use false identification to purchase or attempt to purchase licensed products may be subject to tobacco-related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The city council will consult with the courts, educators, parents, addicted youth, and other interested parties to determine an appropriate penalty for underage violations. The penalty may be established by resolution and amended from time to time. (Added, Ord. No. 17-14; Amended Ord. No. 19-03)

- (d) Administrative civil penalties; licensee. If a licensee or an employee of a licensee is found to have violated this section, the licensee shall be subject to an administrative penalty as follows: (Amended, Ord. No. 17-14)

First violation: The city council shall impose a civil fine of not less than \$75 nor more than \$500. The licensee's license may also be suspended for a period of not more than ten days.

Second violation within 24 months: The city council shall impose a civil fine of not less than \$200 nor more than \$750. The licensee's license shall also be suspended for a period of not more than 20 days.

Third violation within 24 months: The city council shall impose a civil fine of not less than \$250 nor more than \$1,000. The licensee's license shall also be suspended for a period of not less than seven nor more than 30 days.

No suspension or penalty shall take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the city manager or the city manager's designee. A decision that a violation has occurred shall be in writing. (Amended, Ord. No. 98-07, Ord. No. 13-08)

- (e) Defense. It is a defense to an alleged violation of this section, that the licensee or individual reasonably and in good faith relied upon representation of proof of age as shown on one of the acceptable forms of identification as described in Minnesota Statutes, section 340A.503, subdivision 6, paragraph(a). (Amended, Ord. No. 13-08; Amended Ord. No. 17-14)
- (f) Compliance Checks. All licensed premises must be open to inspection by law enforcement or other authorized city officials during regular business hours. From time to time, but at least twice per year, the city will conduct compliance checks. In accordance with state law, the city will conduct at least one compliance check that involves the participation of a person between the ages of 15 and 17 and at least one compliance check that involves the participation of a person between the ages of 18 and 20 to enter licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel. (Amended Ord. No. 13-08; Amended Ord. No. 17-14; Deleted and replaced, Ord. No. 19-03)
- (g) Revocation. A license may be revoked or suspended by the city council for a violation of the provisions of this subsection after notice and hearing.

1132.21 Severability. If any subsection or provision of this section is held invalid, such invalidity will not affect other subsections or provisions that can be given force and effect without the invalidated subsection or provision. (Added, Ord. No. 17-14)

Section 1135 - Pawnbrokers, Secondhand Goods Dealers,
Consignment Dealers, Auction House Dealers, and Traders

1135.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Pawnbroker" means a person who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

Subd. 3. "Secondhand goods dealer" means a person whose regular business includes purchasing and selling, purchasing and/or receiving donations, tangible personal property (excluding motor vehicles) previously used, rented, owned or leased. (Amended, Ord. No. 95-07; Ord. No. 05-02)

Subd. 4. "Consignment house dealer" means a person whose regular business includes receiving, but not purchasing, tangible property with the intention to sell the property and divide the proceeds with the owner. (Added, Ord. No. 95-07)

Subd. 5. "Auction house dealer" means a person whose regular business includes auctioning used goods. The auction house dealer may receive used goods to auction, but may not purchase said items for auction. (Added, Ord. No. 95-07)

Subd. 6. "Traders" means a person(s) whose regular business primarily consists of receiving tangible property in trade for other tangible property in stock. (Added, Ord. No. 95-07)

Subd. 7. "Minor dealer" means a consignment house dealer or trader whose business occupies no greater than 2,250 square feet of gross floor area. (Added, Ord. No. 95-07; Amended, Ord. No. 98-18; Ord. No. 05-02)

Subd. 8. "Automated Pawn System" means a database created and administered by the Minneapolis Police Department, used by communities to share pawn/secondhand transaction information electronically. (Added, Ord. No. 11-16)

1135.03. Exemptions. This section does not apply to or include the following:

- (a) The sale of secondhand goods where all of the following conditions are present:
 - (1) the sale is held on property principally occupied as a dwelling by the seller, or owned, rented or leased by a charitable or political organization;
 - (2) the items offered for sale are owned by the occupant;
 - (3) the sale does not exceed a period of 72 consecutive hours;
 - (4) not more than two sales are held either by the same person or on the same property in any 12 month period; and
 - (5) none of the items offered for sale have been purchased for resale or received on consignment for purpose of resale.

- (b) sales by a person licensed under section 1130 as a motor vehicle dealer;
- (c) the sale of secondhand books, magazines, or films or bona fide antiques or collectibles; (Amended, Ord. No. 95-07)
- (d) the sale of goods at an auction held by a licensed auctioneer if occurring not more than twice in a 12 month period; (Amended, Ord. No. 95-07)
- (e) the business of buying or selling secondhand goods where such business is incidental to and not the primary business of a person. Incidental in this case shall mean less than 20% of the total gross sales; at the specific business location on the application; (Amended, Ord. No. 95-07; Ord. No. 98-18; Ord. No. 05-02)
- (f) 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;
- (g) Firearms, including antique firearms, sold by firearms dealers holding currently valid federal firearms dealer licenses permitting them to deal in such sales;
- (h) sales of precious metals made by precious metal dealers holding currently valid county license issued pursuant to Minnesota Statutes, section 325.F.733 permitting them to engage in such sales;
- (i) sales made by the sheriff or other public officials in discharge of their official duties; or
- (j) sales made by assignees or receivers appointed in this state to make sales for the benefit of creditors.

1135.05. License required. Subdivision 1. Pawnbroker. No person may conduct, operate or engage in the business of a pawnbroker without first obtaining a pawnbrokers license. (Amended, Ord. No. 95-07)

Subd. 2. Secondhand goods dealer. No person may conduct, operate or engage in the business of secondhand goods dealer without having first obtained a secondhand goods dealer license. (Amended, Ord. No. 95-07)

Subd. 3. Consignment house dealer. No person may conduct, operate, or engage in the business of a consignment house dealer without first obtaining a consignment house license. (Amended, Ord. No. 95-07)

Subd. 4. Auction house dealer. No person may conduct, operate, or engage in the business of an auction house dealer without first obtaining an auction house license. (Added, Ord. No. 95-07)

Subd. 5. Traders license. No person may conduct, operate, or engage in the business of trading without first obtaining a trading license. (Added, Ord. No. 95-07)

Subd. 6. Separate licenses required. A person must obtain a separate license for each of the above activities for which they engage. (Added, Ord. No. 95-07)

1135.07. Multiple dealers. Subdivision 1. Multiple sales locations. The owner of a business, at which two or more secondhand goods dealers are engaged in business by maintaining separate sales space and identifying themselves to the public as individual dealers, may obtain a multiple secondhand goods dealer license for that location. A multiple license may not be issued unless the following requirements are met:

- (a) the businesses must have a single name and address;
- (b) the businesses must operate in a compact and contiguous space;

- (c) the businesses must be under the unified control and supervision of the one person who holds the license; and
- (d) sales must be consummated at a central point or register operated by the owner of the business, and the owner must maintain a comprehensive account of all sales.

Subd. 2. Compliance. 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 subsection 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.

1135.09. License fee. Subdivision 1. Pawnbroker. The annual license fee for a pawnbroker is set by appendix B. (Amended, Ord. No. 95-07)

Subd. 2. Secondhand goods. The annual license fee for a secondhand goods dealer is set by appendix B (Amended, Ord. No. 95-07)

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, is set by appendix B. (Amended, Ord. No. 95-07)

Subd. 4. Consignment house. The annual license fee for a consignment house dealer is set in appendix B. (Added, Ord. No. 95-07)

Subd. 5. Auction house. The annual license fee for an auction house dealer is est in appendix B. (Added, Ord. No. 95-07)

Subd. 6. Trader. The annual license fee for a trader is set in appendix B. (Added, Ord. No. 95-07)

1135.11. Application. Subdivision 1. Contents. A license applicant must complete an application form provided by the city clerk. The application must be in a form and request information of the applicant as determined by the city council.

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. Fees. The application must be accompanied by the required license fee. The fee will be returned to the applicant if the application is rejected.

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 subsequently revoked by the city council for a violation of this subsection.

1135.13. Bond. A pawnbroker or secondhand goods dealer license will not be issued unless the applicant files with the clerk a bond with corporate surety, cash, or a United States government bond in the amount of \$5,000 for a pawnbroker license or \$3,000 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.

1135.15. Site plan. The application for a pawnbroker or secondhand goods, or an auction house dealer license must be accompanied by the following: (Amended, Ord. No. 95-07)

- (a) a legal description of the property upon which the proposed licensed premises is situated;
- (b) as "as built" survey showing existing and proposed buildings, if any, street curbs, parking areas, etc.; (Amended, Ord. No. 95-07)
- (c) the exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property, and entrances into the premises; and (Amended, Ord. No. 95-07)
- (d) a current floor plan of the licensed premises. (Amended, Ord. No. 95-07)

1135.17. Investigations. Subdivision 1. Conduct. The city, prior to the granting of an initial or renewed pawnbroker or secondhand goods dealer, consignment dealer, auction house dealer, or trader 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 must verify that facts stated in the application, and must report all convicted violations of state law, federal law or municipal ordinances involving the applicant, interested persons, or the license premises while under that applicant's proprietorship. A full background investigation is required for pawn and secondhand goods dealer. (Amended, Ord. No. 95-07)

Subd. 2. Fee. The fee charged by the clerk to an applicant for the costs of investigation is set by appendix B. The applicant will be notified of the investigation fee prior to the city council's final action on the license application. The investigation fee is payable upon terms established by the clerk.

1135.19. Public hearing. A pawnbroker or secondhand goods dealer, consignment house dealer, auction house dealer or trader license will not be issued or renewed without a public hearing. No public hearing is required for a minor dealers license unless deemed necessary by the city council. 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 days' published notice specifying the location of the proposed licensed business premises.

1135.21. Granting of license. After review of the license application, investigation report, and public hearing, if required, the city council may grant or refuse the application for a new or renewed pawnbroker, or secondhand goods dealer, consignment house dealer, auction house dealer, or trader license. A license will not be effective unless the application fee and bind, if applicable, have been filed with the city clerk. (Amended, Ord. No. 95-07)

1135.23. Persons ineligible for license. A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, or trader will not be issued to:

- (a) a person not a citizen of the United States or a resident alien;
- (b) a person under 18 years of age;
- (c) subject to the provisions of law, a person who within five years of the license application date has been convicted of receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, theft, damage or trespass to property, or any law or ordinance regulating the business of pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, or trader;
- (d) a person who within five years of the license application date had a pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, or trader license revoked;
- (e) a person whom the city council determines not to be of sufficient good moral character and repute; or

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. (Amended, Ord. No. 95-07)

1135.24. County license. Pawnbrokers and secondhand goods dealers dealing in precious metals and gems must be licensed by Hennepin County. (Added, Ord. No. 95-07)

1135.25. Places ineligible for license. A license will not be issued or renewed under this section for any of the following reason:

- (a) if taxes, assessment or other financial claims of the city or the state of Minnesota on the licensee's business premises are delinquent and unpaid;
- (b) where operation of a licensed premises would violate zoning ordinances; or
- (c) 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. (Amended, Ord. No. 95-07)

1135.26. Physical features of the site. Licensed pawnbrokers, secondhand goods dealers, and auction house dealers shall:

- (a) have no exterior loudspeaker, nor any public address system that is audible from any residential parcel.
- (b) completely contain their operation within an enclosed building. No storage, display, or sale of merchandise outside of the enclosed building shall be permitted.

- (c) install and maintain burglar alarms for the business establishment and for all locations where goods are stored. (Added, Ord. No. 95-07)

1135.27. Conditional licenses. The council may grant an application for a new or renewed pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, or trader license conditioned upon the applicant making reasonable improvements to the proposed business premises or the property upon which the business premises is 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. (Amended, Ord. No. 95-07)

1135.28. Hours of operation. Pawnbrokers, secondhand goods dealers, consignment dealers, auction house dealers, or traders shall not be open for business between 8:00 p.m. and 7:00 a.m. the following day. A minor dealer shall not be open for business between 10:00 p.m. and 7:00 a.m. the following day. (Added, Ord. No. 95-07; Amended, Ord. No. 98-18)

1135.29. License limitations. A license will be issued to the applicant only and only for the business premises as described in the application. The license is effective only for the premises and person specified in the approved license application. Amendments to this section occurring during any license year shall be applicable to all licenses then in force and the licensee shall comply with such amendments within 30 days of the effective dates or as otherwise provided by the council. (Amended, Ord. No. 95-07)

1135.31. Term; expiration; pro-rata fee. The license is issued for a period of one year beginning on January 1. If the application is made during the license year, a license may be issued for the remainder of the licensed year for a monthly pro rate fee. An unexpired fraction of a month will be counted as a complete month. The license expires on December 31. The investigation fee may not be pro-rated. (Amended, Ord. No. 95-07; Ord. No. 02-05)

1135.33. (Repealed, Ord. No. 95-07)

1135.35. (Repealed, Ord. No. 95-07)

1135.37. Records. In addition to any other records required in this section, a licensed secondhand goods dealer, pawnbroker, consignment house dealer, auction house dealer, or trader at the time of receipt of an item, must immediately record, in ink or other indelible medium in a book or word processing unit, the information listed below. For those items needing entry into the Automated Pawn System, an employee who fails to accurately record the required information in this section shall be subject to administrative penalties for violation of city code along with the licensed business as set forth in section 1135.52. (Amended, Ord. No. 11-16)

- (a) an accurate description of the item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;
- (b) the purchase price;

- (c) date, time and place of receipt;
- (d) full name, address, telephone number, and date of birth of the person from whom the item was received;
- (e) no forms of identification shall be accepted other than the identification number from any of the following forms of identification of the person from whom the item was received:
 - (1) valid photo Minnesota driver's license;
 - (2) valid photo Minnesota identification card;
 - (3) valid photo identification issued by the state of residency of the person from whom the item was received;
 - (4) photo military identification; or
 - (5) current passport.
- (f) the books as well as the goods received must be open for inspection by the police department at reasonable times. Records required by this subsection must be stored and maintained by the licensee for a period of at least three years. (Amended, Ord. No. 95-07)

1135.38. (Added, Ord. No. 95-07) Prohibited items:

- (a) Unless a serial number is recorded for an item to be pawned or sold, or the amount of the pawn is less than \$25, a pawnbroker, secondhand goods dealer, consignment house, auction house dealer or trader are prohibited from pawning, receiving or taking any of the items listed below without acceptable proof of ownership. A photocopy of any document(s) presented to the licensee shall be retained by the licensee until the item is redeemed or following the expiration of the redemption period. Such proof must be provided to the Robbinsdale police department upon request and must be disclosed on the daily report:
 - (1) sound or video equipment;
 - (2) automotive electronic equipment;
 - (3) cameras. (Amended, Ord. No. 97-01, Sec. 1)
- (b) A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer or trader are prohibited from pawning, receiving or taking any items with a serial number identification or "operation identification" symbol which have been obliterated or defaced.
- (c) Consignment house dealer, auction house dealer or trader may not deal with precious jewelry or gems, and precious metals.
- (d) Weapons: A licensed pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, or trader may not receive as a pledge or otherwise accept for consignment, sale or trade any firearms or weapons, including but not limited to revolvers, pistols, sawed-off shotguns, automatic rifles, blackjack, switchblade knives, or other similar weapons or firearms. Ordinary kitchen utensils or cutlery are not prohibited.

1135.39. Daily reports. A pawnbroker, secondhand goods dealer, or auction house dealer shall complete a daily computerized report of transactions. The daily reports shall be provided to the Robbinsdale Police Department upon request. Licensee(s) shall provide, at its sole cost and expense, all equipment necessary for the generation, transmission and storage of such reports. The format and delivery method of the information will be determined by a resolution that shall be adopted by the city council from time to time following input from the licensee(s) and Robbinsdale police department. (Amended, Ord. No. 95-07; Ord. No. 98-3)

1135.40. Billable transaction. Licensee(s) shall also pay a monthly billable transaction fee as set in Appendix B. The billable transaction fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the city council, and shall be reviewed and adjusted, if necessary, annually. Licensees shall be notified in writing 30 days before any adjustment is implemented. Such fee shall be paid no later than 15 days following the date on which the fee statement is mailed to the licensee(s). Failure to pay the monthly billable transaction fee within such time shall be grounds for license denial, suspension or revocation as required under Section 1135.53. (Added, Ord. No. 98-3; Amended, Ord. No. 06-07)

1135.41. Stolen goods. A licensed pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, or trader must report 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. (Amended, Ord. No. 95-07)

1135.42. Videotaping and signage. Subdivision 1. Videotaping. A licensed pawnbroker and secondhand goods dealer must videotape all transactions and have the ability to make a still photo of each customer. The camera must be situated in such a manner as to record a clear view of the customer and items being transacted. The video tape must be in color and electronically record the date and time. The video tape records and still photos must be retained for a minimum of 120 days. Specific video tape records or video tapes shall be provided to the Robbinsdale Police Department upon request. The format and delivery method of the video tape will be determined by the Robbinsdale police department. (Added, Ord. No. 95-07)

Subd. 2. Signage. The licensee must display a sign, in a conspicuous place in the premises and of sufficient size, which informs all patrons that all transactions are reported to the Robbinsdale police department. (Added, Ord. No. 95-07)

1135.43. Purchased goods holding period. Any secondhand goods items purchased (other than reconditioned items or items purchased at wholesale) by a pawnbroker or secondhand goods dealer may not be sold or otherwise transferred for a period of 30 days after the date of purchase. The holding period may not be waived by any person. This section does not prohibit the immediate sale by licensed secondhand goods dealers of items acquired from pawnbrokers following the expiration of the redemption period. (Amended, Ord. No. 95-07, Ord. No. 97-01, Sec. 2)

1135.45. Receipt for goods received. A licensed pawnbroker, secondhand goods dealer, pawnbroker consignment dealer, auction house dealer, or trader must provide a receipt to the seller, pawner, or consignor of any items which includes:

- (a) the address and phone number of the business;
- (b) the date on which the item was received by the business;
- (c) a description of the item received, consigned or taken in pawn and the amount paid to the pledger or the seller in exchange for the item pawned or sold;
- (d) the seller's, pawner's or co-signer's signature. The pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, or trader must retain a copy of this receipt.
- (e) the last regular business day by which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the pawned item on that date;
- (f) the annual rate of interest charged on pawned items received; and
- (g) the name and address of the seller, pawner, or pledger. (Amended, Ord. No. 95-07)

1135.46. Record of goods sold or redeemed. A licensed pawnbroker, secondhand goods dealer, consignment dealer, or auction house dealer must keep a record showing date of sale and sale price for all items. A pawnbroker or consignment shop shall redeem to persons entitled to redeem under Minnesota Statutes 325J.09, or, in the event of death of the person who pawned an item, by a person presenting a pawn ticket, proper identification as required by Robbinsdale City Code section 1135.37(e), and a certified copy of such person's death certificate. (Added, Ord. No. 95-07, Amended, Ord. No. 97-1, Sec. 3)

1135.47. Police orders. The licensee shall retain possession of any item when ordered to do so by a city police officer. If the order is oral, it shall terminate within 72 hours after having been given, unless during such period a written order is delivered to the licensee directing that the item continue to be held and stating the reason therefore. The requirement of this section shall terminate if the item ordered to be held has not been seized or released by the city police within 120 days following the date of the written order. (Amended, Ord. No. 95-07)

1135.49. (Deleted, Ord. No. 95-07)

1135.51. Prohibited acts. Subdivision 1. Minors. A minor may not sell or consign, or attempt to sell or consign, goods with a pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer or trader. (Amended, Ord. No. 95-07)

Subd. 2. Others. A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer or trader may not receive any goods, unless the person from whom the item is received presents identification as required by Robbinsdale City Code, section 1135.37(e). (Amended, Ord. No. 95-07)

Subd. 3. Identification. A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer or trader may not receive any goods, unless the person from whom the item is received presents identification as required by Robbinsdale City Code, section 1135.37(e). (Amended, Ord. No. 95-07)

Subd. 4. Restrictions on sale. (Added, Ord. No. 95-07; Repealed, Ord. No. 97-01, Sec. 4; Added, Ord. No. 00-13)

- (a) No person may pawn, pledge, sell, consign or deposit any article or property with a pawn broker if the article belongs to another or if another person has security interest in the article that the person knows of or should know of, whether or not the person has permission from any other person. (Added, Ord. No. 00-13)
- (b) No person shall give a false or fictitious name, false date of birth, false or out-of-date address of residence or telephone number, or false or altered identification, or the identification of another, or any false material information to any pawn broker in connection with pawning, pledging, selling, consigning or depositing any article of property with a pawn broker. (Added, Ord. No. 00-13)

1135.52. Violations. (Added, Ord. No. 11-16)

- (a) Administrative civil penalties; individuals. Any employee who erroneously enters required information on personal property or other valuable things into the Automated Pawn System (APS) is subject to an administrative penalty.
- (b) Administrative civil penalties; Licensee. If a licensee or an employee of the licensee is found to have erroneously entered required information on personal property or other valuable things into the Automated Pawn System (APS), the licensee shall also be subject to an administrative penalty.

1135.53. License denial, suspension or revocation. 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:

- (a) the operating of the business is in conflict with any provision of this code;

- (b) the operation of the business is in conflict with any health, building, building maintenance, zoning, or any other provision of this code or law;
- (c) the licensee or the business premises fails to conform with the standards for license application contained in this section;
- (d) 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;
- (e) fraud, misrepresentation or bribery in securing a license;
- (f) fraud, misrepresentation or false statements made in the course of the applicant's business;
- (g) subject to the provisions of law, violation within the proceeding five years of any state or federal law relating to receiving stolen property, burglary, robbery, theft, damage or trespass to property, sale of a controlled substance or stolen good, or operation of a business. (Amended, Ord. No. 95-07)

1135.55. Pawn redemption period. A person who pawns an item shall have 60 days to redeem the item before it may be sold. A pawnbroker is permitted to return pledged goods to the borrower at any time during the redemption period. The final redemption date must appear on the pawn ticket. This section does not prohibit the immediate sale by licensed secondhand goods dealers of items acquired from pawnbrokers following the expiration of the redemption period. (Amended, Ord. No. 95-07; Ord. No. 11-13))

1135.57. (Amended, Ord. No. 95-07; Deleted, Ord. No. 11-13)

1135.59. Inspections. A peace officer or any properly designated employee of the City or the state of Minnesota may enter, inspect and search business premises licensed under this section, during business hours, without a warrant. (Amended, Ord. No. 95-07, Ord. No. 97-01, Sec. 5)

1135.61. Application for existing licensee(s). Notwithstanding any provision in this section or Section 530 of the Robbinsdale Zoning Code to the contrary, any licensee who possesses a valid license on the effective date of this ordinance shall be entitled to continue operation under such license and to obtain licenses from year to year thereafter for such premises subject to the provisions of this section but not subject to the provisions of Section 530. (Amended, Ord. No. 95-07)

Section 1140 - Adult Establishments
(Added, Ord. No. 95-09, Sec. 1)

1140.01. Findings and purpose. Studies conducted by the Minnesota attorney general, the American Planning Association and cities such as St. Paul; Indianapolis; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and findings, the city council concludes:

- (a) Adult establishments have adverse secondary impacts of the types set forth above.
- (b) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
- (c) It is not the intent of the city council to prohibit adult establishments from having a reasonable opportunity to locate in the city.
- (d) Minnesota Statutes, section 462.357, allows the city to adopt regulations to promote the public health, safety, morals and general welfare.
- (e) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.

1140.03. Definitions. Subdivision 1. The following terms have the meanings given them below.

Subd. 2. Adult establishment. A business engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- (a) a business that is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage, either by operation of law or by the owners of such business, except any business licensed under Chapter XII of the Robbinsdale city code;
- (b) any business that has (1) at least one-third of its inventory, stock and trade or publicly displayed merchandise, or (2) at least one-third of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) devoted to items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas or (3) at least one-third of any month's gross sales is derived from the sale or rental of items, merchandise or material distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas"; or
- (c) any adult use as defined in subdivision 3 of this section.

Subd. 3. Adult use. An adult use is any of the activities and businesses described below:

- (a) Adult body painting studio: An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to the body of a patron when such person is nude.
- (b) Adult bookstore: An establishment or business used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such business is not open to the public generally but only to one or more classes of the public, excluding all minors from patronage, or if (1) at least one-third of the inventory, stock and trade or publicly displayed merchandise, or (2) at least one-third of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) is devoted to items, merchandise or other material distinguished and characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas," or (3) if at least one-third of any month's gross sales is derived from the sale or rental of items, merchandise or material distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (c) Adult cabaret: A business or establishment that provides dancing or other live entertainment to patrons if the dancing and live entertainment is distinguished and characterized by an emphasis on the presentation, display, depiction of matter that seeks to evoke, arouse or excite the patrons' sexual or erotic feelings or desire.
- (d) Adult companionship establishment: A business or establishment which excludes all minors from patronage, and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (e) Adult conversation/rap parlor: A business or establishment which excludes all minors from patronage, and which provides the services of engaging in or listening to conversation, talk, or discussion, if such service is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (f) Adult health/sport club: A health/sport club which excludes all minors from patronage, if such club is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (g) Adult hotel or motel: A hotel or motel from which excludes all minors from patronage and where material is presented which is distinguished and characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- (h) Adult massage parlor, health club: A massage parlor or health club which excludes all minors from patronage, and which provides the services of massage, if such service is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- (i) Adult mini-motion picture theater: A business or establishment with a capacity for less than 50 persons used for presenting material if such material is distinguished and characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- (j) Adult modeling studio: A business or establishment that provides customers 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.
- (k) Adult motion picture arcade: Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished and characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- (l) Adult motion picture theater: A motion picture theater with a capacity of 50 or more persons used for presenting material if such theater as a prevailing practice excludes all minors from patronage or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons.
- (m) Adult novelty business: A business which has as a principal activity the sale of materials or devices which stimulate human genitals, which are designed for sexual stimulation, or which depict or relate to "specified anatomical areas" or "specified sexual activities".
- (n) Adult sauna: A sauna which excludes all minors from patronage, and which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (o) Adult steam room/bathhouse facility: A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building excludes all minors from patronage and if the service provided by the steam room/bathhouse facility is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (p) "Personal escort service," or "model service," "dancing service" and "hostess service" mean any person, establishment or business advertising, offering, selling, trading or bartering the services of itself or its employees or agents as hostesses, models, dancers, escorts, dates or companions whether or not goods or services are simultaneously advertised, offered, sold, traded or bartered and regardless of whether said goods or services are also required to be licensed. (Added, Ord. No. 03-11)

- (q) “Adult encounter group” and “adult sensitivity group” mean any person, establishment or business advertising, offering, selling, trading or bartering the services of itself, or its employees or agents as nonprofessional counselors, or teachers or therapists who may talk to, discuss or have conversation with patrons or who deal in any way with a patron’s physical senses, whether or not other goods or services are simultaneously advertised, offered, sold, traded or bartered and regardless of whether said goods or services are also required to be licensed. (Added, Ord. No. 03-11)
- (r) Similar “adult-oriented services” is meant to include all other services, which fall within the definitions of subsection 1140.03 but are operated under different names. (Added, Ord. No. 03-11)

Subd. 4. Nude or specified anatomical areas.

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

Subd. 5. Specified sexual activities.

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
- (b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- (d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- (e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- (f) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or anal irrigation.

1140.05. Location. No adult establishment may be located within 1,000 feet of a residential zoning district or within another adult establishment. Distances shall be measured from the nearest point of the property where the adult establishment is located to the nearest boundary of the residential zoning district or of the property containing another adult establishment.

1140.07. Hours of operation. No adult establishment may be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

1140.09. Additional conditions for adult cabarets. The following additional conditions apply to adult cabarets:

- (a) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
- (b) No dancer, live entertainer, performer, patron or any other person shall be nude in an adult cabaret.
- (c) The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: The person's full name including all previously used legal names, home address, home telephone number, date of birth and any presently or previously used aliases.
- (d) No dancer, live entertainer or performer shall be under 18 years old.
- (e) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
- (f) No dancer or performer shall perform any dance or live entertainment closer than ten feet to any patron.
- (g) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- (h) No patron shall pay or give any gratuity to any dancer or performer.
- (i) No dancer or performer shall solicit any pay or gratuity from any patron.

1140.11. License required. Subdivision 1. No person shall own or operate an adult establishment without having first secured a license as provided for in this subsection. Notwithstanding any other provision of this code to the contrary, including Chapters X and XI, the procedures set forth in this subsection establish the exclusive method for obtaining an adult establishment license. Whenever any establishment ceases to be licensed whether through the suspension, cancellation, revocation, non-renewal or lapse of its license, its owners shall immediately remove from public view any sign or display which identifies the establishment as being an enterprise as defined in subsection 1140.03. (Amended, Ord. No. 03-11)

Subd. 2. Application. The application for an adult establishment license shall be submitted on a form provided by the city and shall include:

- (a) If the applicant is an individual, the name, residence, phone number, and birthdate of the applicant. If the applicant is a partnership, the name, residence, phone number, and birthdate of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birthdates of all those persons holding more than 5% of the issued and outstanding stock of the corporation.
- (b) The name, address, phone number, and birthdate of the operator and manager of such operation, if different from the owners.
- (c) The address and legal description of the premises where the adult establishment is to be located.
- (d) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities.
- (e) The activities and types of business to be conducted.
- (f) The hours of operation.
- (g) The provisions made to restrict access by minors.
- (h) A building plan of the premises detailing all internal operations and activities.
- (i) Any other information that the city clerk or city council may require to enforce the requirements of this section of the city code. (Added, Ord. No. 03-11)

Subd. 3. License fee.

- (a) The annual license fee for an adult establishment license is set by Appendix B.
- (b) Each application for a license shall be submitted to the city manager and payment made to the city. Each application for a license shall be accompanied by payment in full of the required license fee. Upon rejection of any application for a license, the city shall refund the license fee.

- (c) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. (Amended, Ord. No. 02-05)
- (d) No part of the fee paid by any license shall be refunded, except that a pro rata portion of the fee shall be refunded in the following instances upon application to the city manager within 30 days from the happening of the event, provided that such event occurs more than 30 days before the expiration of the license:
 - (i) Destruction or damage of the licensed premises by fire or other catastrophe.
 - (ii) The licensee's illness.
 - (iii) The licensee's death.
 - (iv) A change in the legal status making unlawful for licensed business to continue.
- (e) Each application shall contain a provision on the application in bold print indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the city council by the applicant(s) or licensee. If said changes take place during the investigation, said data shall be provided to the police chief or the city manager in writing and they shall report the changes to the city council. Failure to report said changes by the applicant(s) or the licensee may result in a denial or revocation of a license.

Subd. 4. Investigative fee. Subdivision 1. The investigative fee for an adult establishment license shall be determined as follows:

- (a) Upon applying for the license, the applicant shall pay an investigative fee set by Appendix B per person identified on the application as an owner, operator or manager.
- (b) If it appears that the investigative costs will exceed the amount set forth in Appendix B, the city manager shall notify the applicant and give the applicant an estimate of costs. The applicant shall either make an additional deposit equal to the difference or shall withdraw the application. If the additional deposit is not paid within 14 days, the application shall be deemed withdrawn.
- (c) If the costs of administration, issuance and investigation are less than the deposit, the balance shall be refunded upon the issuance or denial of the license. No license shall be issued until the applicant has paid the entire cost of administration, issuance and investigation.

Subd. 5. Liability insurance. Prior to the issuance of a license, the applicant shall file with the clerk a liability insurance policy providing coverage of at least \$1 million combined single limit issued by an insurance company authorized in the state of Minnesota. The policy shall provide that no cancellation for any cause may be made by either the insured or the insurer without first giving written notice of such cancellation to the city at least 30 days prior to the effective date of the cancellation. The policy shall further provide that no payment of any claim by the insurance company shall in any manner decrease the coverage provided for in respect to any other claim or claims brought against the insured or the insuring company. The policy shall be subject to approval by the city attorney as to form and execution and shall be issued by companies who are duly licensed to do business in the state of Minnesota. The policy, when approved, shall be deposited with the clerk. (Added, Ord. No. 03-11)

Subd. 6. Granting of license.

- (a) The city manager and police chief, or such persons as they shall designate, shall complete their investigation within 30 days after the city manager receives a complete application and all license and investigative fees.
- (b) An application for a new license shall be issued upon the approval of the city council only after a public hearing has been conducted. If the application is for a renewal, the applicant shall be allowed to continue business until the council has determined to renew or refuse to renew a license. (Amended, Ord. No. 03-11)
- (c) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this subsection, then the license shall be issued by the city council within 30 days after the investigation is completed. Otherwise the license shall be denied.
- (d) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult establishments existing at the time of the adoption of this subsection shall be required to obtain an annual license.

Subd. 7. Persons ineligible for license. No license shall be granted to or held by any person:

- (a) Under 21 years of age;
- (b) Who is overdue or whose spouse is overdue in their payment to any unit of government for taxes, fees, fines or penalties assessed against them or imposed upon them;
- (c) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses or adult establishments;

- (d) Who is not the proprietor of the establishment for which the license is issued;
- (e) Who is residing with a person who has been denied a license by the city or any other Minnesota municipal corporation to operate an adult establishment, or residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding 12 months;
- (f) Who has not paid the license and investigative fees required by this subsection.

Subd. 8. Places ineligible for license.

- (a) No license shall be granted for adult establishments on any premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this subsection, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.
- (b) No license shall be granted for any adult establishment which is not in full compliance with the city code, the city's zoning ordinance, the building code, the fire code, the city's health regulations and all provisions of state and federal law.

Subd. 9. Conditions of license.

- (a) Every license shall be granted subject to the following conditions and all other provisions of this subsection, and of any applicable sections of the city code, the city's zoning ordinance, the building code, the fire code, city, county, state and federal health regulations and all provisions of state and federal law. (Amended, Ord. No. 03-11)
- (b) All licensed premises shall have the license posted in a conspicuous place at all times.
- (c) No minor shall be permitted on the licensed premises.
- (d) Any designated inspection officer of the city shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- (e) Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions of order.
- (f) No adult goods or material services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
- (g) The licensee shall take all necessary steps to prevent the consumption or possession of alcoholic beverages and controlled substances on any part of the premises by either customers or employees. (Added, Ord. No. 03-11)
- (h) The licensee shall refuse to accept as a customer any person obviously under the influence of alcohol or drugs. (Added, Ord. No. 03-11)

- (i) The furnishings to be located on the premises or the equipment available for patrons may not be modified from the descriptions contained in the application without the prior approval of the city. (Added, Ord. No. 03-11)

Subd. 10. Penalty.

- (a) Any person violating any provision of this section is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.
- (b) Any violation of this section shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the city council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The council shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within 30 days of the date of the notice.
- (c) The city council shall determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period.

Subd. 11. Right of appeal.

- (a) In the event that the council determines to suspend, or revoke a license, such suspension or revocation shall not be effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action, then the suspension or revocation shall be stayed until the conclusion of such action.
- (b) If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the city acted properly, the licensee may continue in business until the conclusion of the action.
- (c) If the city council decides not to grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the city acted properly. The applicant shall not commence doing business unless the action is concluded in its favor.

Section 1145 – Lawn Fertilizer Application Control
(Added, Ord. No. 01-03)

1145.01. Lawn fertilizer application control. Subdivision 1. Purpose. The city has conducted studies and has reviewed existing data to determine the current and projected water quality of various lakes within its community. The 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 water runoff or other causes. The purpose of this section is to define regulations which will aid the city in managing and protecting its water resources which are enjoyed by its residents and other users.

Subd. 2. Definitions. For the purpose of this section, certain terms and words are defined as follows:

"Commercial applicator" is a person who is engaged in the business of applying fertilizer for hire.

"Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by Rule of the Minnesota Commissioner of Agriculture.

"Noncommercial applicator" is a person who applies fertilizer during the course of employment, but who is not a commercial lawn fertilizer applicator.

"Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

Subd. 3. Regulations for commercial lawn fertilizer applicators.

- (a) License required. After December 31, 2001, no person, firm, corporation or franchise shall engage in the business of commercial lawn fertilizer applicator with the city unless a license has been obtained from the city of Robbinsdale or a designee is provided herein.
- (b) License application procedure. Applicants for a commercial lawn fertilizer applicator license shall be submitted to the city of Robbinsdale or a designee. The application shall consist of the following:
 - (1) Application form. Application forms shall be provided by the city and shall include the following instructions:
 - (i) Name, address and telephone number of applicant and any individuals authorized to represent the applicant.
 - (ii) Description of lawn fertilizer formula proposed to be applied on lawns within the city.
 - (iii) A time schedule for application of lawn fertilizer and identification of weather conditions acceptable for lawn fertilizer application.

- (2) Product material safety data sheet. A copy of material safety data sheet, including product chemical analysis of the intended lawn fertilizer, shall be submitted to the city along with the initial application for a license and, thereafter, at least seven days before fertilizer composition changes are implemented.
 - (3) Minnesota state licenses. A copy of all licenses required of the applicant by the state of Minnesota regarding the application of pesticides and fertilizers.
 - (4) License fee. The license fee is set forth in Appendix B. The license shall expire on the 31st day of December. The license fee shall not be prorated. (Amended, Ord. No. 2018-02)
 - (5) Insurance. The applicant must provide a certificate of insurance with the city with public liability insurance of not less than \$1,000,000 combined single limit issued by an insurance company authorized to do business in the state of Minnesota. The policy must provide that it may not be cancelled by the issuer except upon ten days' written notice to the city. If the insurance is cancelled the license or permit will be automatically suspended until the insurance is replaced. (Added, Ord. No. 03-22)
- (c) Conditions of license. Commercial lawn fertilizer applicator licenses shall be issued subject to the following conditions which shall be specified on the license form:
- (1) Random sampling. Commercial lawn fertilizer applicators shall permit the city to sample any commercial lawn fertilizer applications to be applied with the city at any time after issuance of the initial license.
 - (2) Possession of license. The commercial lawn fertilizer 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.
 - (3) Possession of product material safety data sheet. A copy of product material data safety sheet of the lawn fertilizer used shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer applications within the city.
 - (4) State regulations. Licensee shall comply with the provisions of the Minnesota fertilizer, soil amendment and plant amendment law, as contained in Minnesota Statutes, chapter 18C and amendments thereto. The licensee shall also comply with the provisions of the pesticide control as contained in Minnesota Statutes, chapter 18B.

Subd. 4. General regulations.

- (a) Time of application. Neither commercial applicators or noncommercial applicators shall apply lawn fertilizer when the ground is frozen or when conditions exist which will promote or create runoffs.

- (b) Sample analysis cost. The cost of analyzing fertilizer samples taken from commercial applicators shall be paid by the commercial applicators if the sample analysis indicates that phosphorous content exceeds the levels authorized therein.
- (c) Fertilizer content. No person, firm, corporation, franchise, or commercial or noncommercial applicator, including homeowners or renters, shall apply any lawn fertilizer, liquid or granular, within the city of Robbinsdale which contains any amount of phosphorous or other compound containing phosphorous, such as phosphate, except:

- (1) the naturally occurring phosphorous in unadulterated natural or organic fertilizing products such as yard waste compost;
 - (2) or as otherwise provided in subdivision 5.
- (d) Impervious surfaces and drainage ways. No person shall apply fertilizer to impervious surfaces, areas within drainage ditches, or waterways.
- (e) Buffer zone. Fertilizers and pesticides shall not be applied:
- (1) below the ordinary high water lines as established by the Minnesota department of natural resources; or
 - (2) within ten feet of any wetland or water resource.
- (f) Warning signs for pesticide application. All commercial or noncommercial lawn fertilizer applicators who apply pesticides to turf areas must post or affix warning signs on the property where the pesticides are applied. The warning signs shall comply with the following criteria and contain the following information:
- (1) The warning signs must project at least 18 inches above the top of the grass line. The warning signs must be of a material that is rain resistant for at least a 48 hour period and must remain in place up to 48 hours from the time of initial application.
 - (2) The following information must be printed on the warning signs in contrasting colors and capitalized letters measuring at least one-half inch, or in another format approved by the Minnesota Commissioner of Agriculture. The signs must provide the following information:
 - (a) The name of the business, entity, or person applying the pesticide; and
 - (b) The following language: "This area chemically treated. Keep children and pets off until (date of safe entry)" or a universally accepted symbol and text approved by the Minnesota Commissioner of Agriculture as recognized as having the same meaning or intent as specified in this subparagraph. The warning signs may include the name of the pesticide used.
 - (3) The warning sign must be posted on a lawn or yard between two feet and five feet from the sidewalk or street. For parks, golf courses, athletic fields, playgrounds, or other similar recreational property, the warning signs must be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrance to the property.

Subd. 5. Exemption and notice requirement. The prohibition against use of fertilizer containing any quantity of phosphorous under subdivision 4 shall not apply to:

- (a) Newly established or developed turf and lawn areas during the first growing season; or
- b) Turf and lawn areas which soil tests confirm are below phosphorous levels established by the University of Minnesota extension services. The lawn fertilizer application shall not contain an amount of phosphorous exceeding the amount of phosphorous and the appropriate application rate recommended in the soil test evaluation.

Phosphorous applied as lawn fertilizer pursuant to the aforementioned exemptions shall be watered in the soil where it is immobilized and generally protected from loss by runoff.

Any person, firm, corporation, franchise, or commercial or noncommercial applicator, including a homeowner or renter, shall notify the city at least 24 hours prior to applying lawn fertilizer containing phosphorous contained in the lawn fertilizer to be applied.

Subd. 6. Penalty. Any person violating this section shall be guilty of a petty misdemeanor. The city may revoke a commercial applicator's license for repeat violations of this section.

Section 1150 – Fireworks

1150.01. Subdivision 1. Consumer fireworks. “Consumer fireworks” means the items defined as “fireworks” in Minnesota Statutes, section 624.20. (Amended, Ord. No. 13-01)

Subd. 2. Illegal fireworks prohibited. Except as otherwise provided by Minnesota Statutes, section 624.20 to 624.25, no person shall offer for sale, expose for sale, sell at retail or wholesale, possess, advertise, use or explode any fireworks, as that term is defined in Minnesota Statutes, section 624.20, subdivision 1.

Subd. 3. License required for consumer fireworks. No person shall offer for sale, expose for sale, sell at retail or wholesale, or advertise for the sale of any consumer fireworks unless such person shall first obtain a license to be issued by the city council in the manner herinafter prescribed, and unless such person shall comply with the provisions of this section and the terms and conditions prescribed in such license. No license shall be issued for outside fireworks sales or sales from a temporary structure, unless it is accessory to the principal use and a conditional use permit is issued, per section 520.05, subdivision 4(f). (Amended, Ord. No. 03-28)

Subd. 4. Zoning compliance. Consumer fireworks may only be sold from an existing retail building in B-2, B-3, B-4 and DD-1 zones. (Amended, Ord. No. 03-28)

1150.03. Subdivision 1. Application for license. Each applicant shall file a written and signed application, on a form prepared by the city clerk. Such application shall describe the specific location where, the day or days when, and the hour or hours during which the applicant intends to offer for sale, expose for sale, or sell at retail or wholesale any legal fireworks, and such other pertinent information as the council may deem necessary to enable it to carry out the provisions of this section. No license shall be issued unless the application has been approved by the planning department as meeting the city’s zoning regulations, by the fire department as meeting the requirements of the adopted city fire code, and by the Robbinsdale police department as meeting the requirements of any other state or local laws.

Subd. 2. The application shall contain and the applicant shall provide, at a minimum, the following information:

- (a) Applicant’s name, address, phone number, and date of birth.
- (b) The address and phone number for the sale site.
- (c) Verification that there shall be at least two code compliant exists from all buildings from which fireworks are stored or sold.
- (d) The duration of the permit.
- (e) The type and quantity, in pounds, of the specific type of fireworks to be at the sale site.
- (f) A statement that applicant understands that persons selling and purchasing fireworks must be at least 18 years of age.
- (g) A statement that applicant understands what constitutes consumer fireworks and what are illegal under state law. (Amended, Ord. No. 03-28)
- (h) A complete description and drawing showing exactly where the fireworks are going to be placed for retail sale and where and how they will be stored, and/or a complete description of all storage, retention and outdoor special effect show activities.

Subd. 3. Applicant shall file with the application evidence that the applicant has liability insurance coverage in an amount of \$1,500,000 per occurrence to cover licensee's negligent acts relative to the sale, possession or use of fireworks. Such insurance shall indicate that the city of Robbinsdale shall receive notice at least 30 calendar days prior to the cancellation or termination of the coverage. Any license issued under the authority of this section shall immediately terminate upon the cancellation or termination of the insurance coverage required herein. (Amended, Ord. No. 13-01)

1150.05. Issuance of license. Subdivision 1. Terms. The council shall grant a consumer fireworks license to an applicant who complies with the provisions of this section and provides a completed application with appropriate approvals and proof of insurance, unless the applicant or designated location has been the subject of prior violations of this section, in the same year of issuance. A license is an annual license, which shall expire on December 31 of the year of issuance. The license fee as set by Appendix B shall accompany the application. The license fee shall not be prorated.

- (a) Each license issued pursuant to this section shall describe the specific location in which such sales are authorized to take place, the dates and times in which sales may occur at such location, and maximum gross weight of consumer fireworks that may be kept on the premises, relevant licensee data, and such other terms and conditions as may be necessary for the proper enforcement of this section.
- (b) No person shall sell consumer fireworks to a person younger than 18 years of age. Licensee and licensee's employees selling consumer fireworks must be at least 18 years of age. Vendors of consumer fireworks must verify the age of purchaser by the use of photographic identification. (Amended, Ord. No. 03-28)
- (c) The licensee shall prominently post the license at all times at the location where the consumer fireworks are being offered for sale. Amended, Ord. No. 03-28)
- (d) The licensee shall keep at least 2 1/2 gallon water type portable fire extinguishers, or other approved means of extinguishing a fire, at the approved location where the consumer fireworks are being offered for sale and where they are stored at times when they are not offered for sale. (Amended, Ord. No. 03-28)
- (e) The licensee shall prominently post at least two approved "No Smoking" signs at the location where the consumer fireworks are being offered for sale and where they are stored at times when they are not offered for sale. (Amended, Ord. No. 03-28)
- (f) No signs, banners, pennants, or any other forms of advertising shall be displayed unless in compliance with the Robbinsdale sign ordinance. All permits required by the sign ordinance shall be obtained.

1150.06. Fireworks display. Subdivision 1. Permit required for display of fireworks. The display of fireworks, other than consumer fireworks, may be conducted only upon the issuance of a permit from the city for that purpose. (Added, Ord. No. 03-28)

Subd. 2. Application - fee. The application for a display permit must be on forms prepared by the city clerk and must be made at least 30 calendar days in advance of the date of the display. The display permit fee, in Appendix B, must accompany the application. If the application is denied, the fee will be refunded less the expenses incurred by the city in investigation and review of the application. (Added, Ord. No. 03-28, Amended, Ord. No. 13-01)

Subd. 3. Eligibility. Display permits will be issued only to entities that are permitted to hold such permits pursuant to Minnesota Statutes, section 624.22. (Added, Ord. No. 03-28)

Subd. 4. Investigation. The completed application will be promptly referred to the fire chief for review and recommendation. The fire chief shall report on whether the operator of the display is competent and is certified by the state fire marshal; and whether the display is of such a character and it to be so located, discharged or fired that it will not be hazardous to property or endanger any person. (Added, Ord. No. 03-28)

Subd. 5. Issuance. The city clerk will issue the permit if the fire chief's report determines that the operator is competent and certified, and that the fireworks display as proposed will conform to the safety guidelines of the state fire marshal as provided for in Minnesota Statutes, section 624.22, subdivision 1(e); and if the applicant has furnished evidence of comprehensive general liability insurance in an amount customarily recommended for such events. If the report of the fire chief does not contain all such determinations, or if the evidence of insurance is not sufficient, the city clerk will notify the applicant in writing of the denial and the reasons for the denial. The city clerk will also promptly refund the application fee after making the deductions described in subdivision 2. After a permit has been granted, sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable. (Added, Ord. No. 03-28)

Subd. 6. Scope of display. The display permit only authorizes a display that is in conformity with the information contained in the approved application including, without limitation, the date, time, location, direction, nature of the fireworks used in the display, and the operator. (Added, Ord. No. 03-28)

1150.07. Special restrictions. Subdivision 1. No person shall set off, ignite or explode consumer fireworks on public property or within 15 feet of any building. No indoor, proximate audience displays or special effects fireworks shows shall be allowed in the city of Robbinsdale. It is unlawful to throw, toss or aim any fireworks at any person, animal, vehicle or other thing or object or be used in any manner that may threaten or cause any possible harm to life or damage of property. Consumer fireworks may not be discharged in such a manner that may create a nuisance or between the hours of 10:00 p.m. to 7:00 a.m. (Amended, Ord. No. 03-28)

Subd. 2. All outdoor special effects shows will require a license from the city and a review of plans and site inspection by the fire department. (Amended, Ord. No. 13-01)

Subd. 3. In buildings that have an automatic sprinkling system, consumer fireworks shall be limited to a gross weight of 400 pounds. In buildings that do not contain an automated sprinkling system the amount of consumer fireworks contained in retail sales displays shall be determined by the Robbinsdale fire chief on a case by case basis after considering the building's construction, fire suppression apparatus and other relevant factors. Gross weight permitted by any license shall be shown on the license.

Subd. 4. No exterior storage, display, sales or transient sales of fireworks are permitted.

Subd. 5. Violations. Any person who violates the provisions of this section shall be guilty of a misdemeanor. The city council may revoke or suspend the license, following a hearing on such violation. The city council may also consider such violation in reviewing any application for license for any year following the year of the violation.

Subd. 6. Application of other laws. Nothing in this section shall be deemed to make lawful the sale or use of any type of fireworks when such sale or use is prohibited by state law.

1150.09. Inspections; termination until compliance gained. Officers of the city's police and fire departments may, at any time when licensee is engaged in selling or displaying fireworks for sale, inspect the premises to determine compliance with this section. Licensee must discontinue selling or displaying fireworks for sale until compliance with all provisions of this section, the fire code, and any other state or federal regulations.

Section 1155 – Donation Collection Bins
(Ordinance No. 17-01)

1155.01. Purpose. The purpose of this section is to regulate the placement and maintenance of donation collection bins upon any property within the City of Robbinsdale.

1155.02. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. “Donation collection bin” (hereinafter referred to as “Bin” or “Bins” means a receptacle in which the general public may deposit items to be recycled, resold, or reused including, but not limited to, clothing, shoes, textiles, books, or household items.

1155.03. License Required. Subdivision 1. General Rule. No person shall locate a Bin at any place in the city unless they have obtained a license therefore as provided herein.

Subd. 2. Application For License. Application for such license shall be made to the city clerk and shall state the full name and address of the applicant, the company name of the owner/operator of the Bin (if different from the applicant), the property address and site plan depicting the exact size and the specific location where Bin is to be sited, statement of permission from the property owner of the premises (if different from the applicant), 24-hour emergency contact information for the owner/operator, proof of insurance, license fee, and such other information as the city clerk may require. The application shall be presented to the city council for its consideration, and if granted by the council, a license will be issued by the city clerk.

Subd. 3. License Fee. The fee for a license is set by Appendix B.

Subd 4. Term. Licenses expire annually on December 31. Licenses are not transferable. License renewal is subject to the license provisions described in section 1005 Licensing Procedures.

1155.04. Conditions of License. All Bins shall be subject to the following requirements:

- (a) Bins shall not be located in residentially-zoned districts or in districts zoned DD1
- (b) Bins shall not be placed in the public right-of-way.
- (c) Not more than one (1) Bin shall be located at any location or property.
- (d) Items collected shall be limited to nonfood items that can be placed inside of the Bin through the opening and shall not be left outside of the Bin.
- (e) Bins shall be installed on a hard, level surface and shall be locked or otherwise secured to prevent removal of items; maintained in good condition and appearance with no structural damage, holes, or visible rust; and shall be free of graffiti.
- (f) Bins shall be monitored daily, serviced and emptied as needed by the owner or operator, or the property owner, to prevent outflow of materials onto surrounding area. Items left outside the Bin shall be collected and removed within twenty-four (24) hours’ notice

provided to the property owner and operator of the Bin. All sorting and processing of goods collected shall occur within a completely enclosed building.

- (g) Bins shall not be located in any required yards and shall not interfere with on-site circulation, landscaping, required off-street parking, accessible parking areas, walkways, or any other requirements that may have been imposed as part of the site plan approved for the premises.
- (h) The Council may impose any additional conditions or restrictions it deems reasonably necessary or advisable.

1155. 05. Revocation of License. Every such license may be revoked by the Council, after the licensee has been given reasonable notice and an opportunity to be heard, for the violation of any provision of this code, or for the violation of any conditions, or restrictions imposed at the time of the issuance of the license, or imposed thereafter or upon failure of the licensee to comply with any condition, order or direction issued by the Council. Notwithstanding that, upon reasonable notice and opportunity to be heard, the City Council reserves the right to terminate a license for any other lawful basis and return a pro-rated portion of the licensing fee.

1155. 06. Exceptions. Educational, religious, charitable or other non-profit entities hosting a donation collection bin on their own property on a temporary basis for fund-raising purposes are exempt from the licensing requirements.

1155. 07. Violation of Provisions. The City Council may suspend or revoke a license issued pursuant to section 1005.21.