

CHAPTER XI
BUSINESS AND TRADE REGULATIONS
Section 1100 - Amusements and amusement devices

1100.01. Activities licensed. It is unlawful to operate within the city a circus, theatrical performance, show, dance hall, merry-go-round, ferris wheel, shooting gallery, pool table, billiard table, bowling alley, or any game or performance, or any apparatus or device for which a fee, price or admission is charged without a license.

1100.03. Applications for amusement license. An applicant for an amusement or amusement device license must appear in person before the council and present a written application stating in detail the nature and scope of the activity contemplated to be operated. Upon council approval, the application procedure of appendix IV applies. The license fees for activities licensed under this section are set by appendix IV.

1100.05. Fortune tellers. Fortune tellers, astrologers or persons practicing palmistry, clairvoyancy, mesmerism or persons giving exhibitions or practicing or using any device for the purpose of telling fortunes, or spiritualistic readings, or sittings, or exhibitions of such character, will not be granted a license for any such purpose unless the person has been a resident of this city for at least six months preceding the issuance of such license, and unless the person so applying will, before the issuance of such license, make and execute a bond for the sum of \$200, with sureties approved by the council, conditioned for an observance of this code.

1100.07. Billiard tables and bowling alleys. It is unlawful to operate a billiard table, pool table, pigeonhole table, or a nine or ten pin bowling alley within 500 feet of any public building in the city.

1100.09. Mechanical amusement devices. Subdivision 1. Defined. "Mechanical amusement device" means any machine, which, upon the insertion of a coin or slug, operates or may be operated or used for a game, contest, or amusement of any description.

Subd. 2. License required. It is unlawful to maintain, keep or sell within the city, a mechanical amusement device without a license therefor from the council. This section does not apply to mechanical amusement devices held or kept in storage or for sale, and which are not actually in use or displayed for use.

Subd. 3. License fees. Licenses for mechanical amusement devices must be issued by the clerk after the applications therefor have been approved by the council and the license fees required have been paid.

Subd. 4. Gambling prohibited. It is unlawful to permit the operation of such a machine or device for the making of side bets or gambling in any form. No prize, award, merchandise, gift, money or anything of value may be given to any player of such machine or device.

1100.11. Trampolines. Subdivision 1. License. It is unlawful to practice or exercise or engage in the business of operation of any trampoline, jumping, tumbling or exercising devices within the city for which a fee, price or admission is charged without having first procured and obtained a license therefor.

Subd. 2. Special use permit. A person wishing to obtain a license under this subsection must submit the following along with the application to the planning commission and council for approval of a conditional use permit as provided for in the zoning code:

- a) Site location.
- b) Plans and layout of the business operation showing type and height of fences, lighting, buildings or structures, apparatus or equipment involved.

Subd. 3. Safety devices. The area containing jumping, trampoline, or exercising devices for use by the public must be fenced or otherwise enclosed as recommended by the chief building inspector and approved by the council. The fence or enclosure must be provided with a gate, gates, a door or doors. The gates or doors must be locked when the jumping or exercising devices are not in use or when no attendant is present. The area must be provided with proper lighting as approved by the chief building inspector. Business operations must be scheduled so that the gates or doors may be locked no later than 11:00 p.m. An attendant must be present at all times while members of the public are engaged in or using the trampoline, jumping or tumbling devices.

Subd. 4. Insurance. An applicant for a license must present with the application a certificate of liability insurance. The certificate must be issued by an insurance carrier licensed to do business in the state of Minnesota in the limits of \$25,000 because of bodily injury to or death of one person per accident, and \$50,000 because of bodily injury to or death of two or more persons per accident, and \$5,000 property damage per accident. The certificate must be kept up-to-date by notification to the clerk of changes in coverage and changes of carriers prior to the effective date of the change.

1100.13. Miniature golf. Subdivision 1. Definition. The term “miniature golf course” means one or more golf putting greens for which an admission price is charged.

Subd. 2. License required. It is unlawful to engage in the business or operation of a miniature golf course without a license therefor from the city.

Subd. 3. Application. An applicant must submit a detailed scale layout of the operation showing the location of the greens, lighting, fences, building, structures and other equipment included in the plot. The application must have attached thereto liability insurance policies as set forth herein, the name of the operator, approval of the lighting by the electrical inspector and of the building, fence and structures by the building inspector, approval of the plot plan and off street parking for the miniature golf course by the city engineer.

Subd. 4. Liability insurance. The licensee must keep in force liability insurance by a corporation, or corporations, authorized to write insurance in the state of Minnesota during the license year. The liability insurance must protect the licensee against loss in the sum of at least \$100,000 for injury to or death of any one person in any one accident, and \$300,000 for injury to or death of two or more persons in any one accident, and \$25,000 because of damage to or destruction of property in any one accident resulting from the ownership, operation, or control of the licensed premises or the activities carried on therein. There must appear thereon that the city of Crystal must be notified, in writing, at least ten days prior to the cancellation of such policy of insurance.

Subd. 5. Lighting. Miniature golf courses must be so lighted as to cause no shadows to be cast on the greens and so shielded as to cause no direct lighting to shine off the premises.

Subd. 6. Operator. There must be on duty at all times that the miniature golf course is open to the public an adult operator or manager who is at least 21 years of age.

Subd. 7. Hours of operation. Miniature golf courses may not operate between the hours of 11:00 p.m. and 8:00 a.m.

Subd. 8. Fencing. Six foot high screen fencing of the city approved type suitable to screen abutting residential properties must be permanently installed at or near the property line of a miniature golf course.

Subd. 9. Noise. The use of microphones or other amplifying devices so as to cause attention to be directed to the premises is prohibited as is the loud playing of music, the use of barkers and other noise that is not the necessary and usual use of the premises by the public.

Section 1105 - Auctioneers

1105.01. Auctions and auctioneers. Subdivision 1. Definition. "Auctioneer" means any person who either as principal or agent engages in the occupation or profession of conducting sales at auction for others for hire, and who has been licensed as an auctioneer in the state of Minnesota.

Subd. 2. License required. Except as provided in Subdivision 3, it is unlawful to conduct an auction sale in this city or act as an auctioneer at such an auction or engage in the profession of auctioneer within this city without a license from the city. A license is not necessary in order to conduct a judicial sale; a sale by an executor, administrator or guardian; a sale by a public officer in the manner prescribed by law; or a sale pursuant to statute to satisfy any lien upon the property sold.

Subd. 3. Proof of county license. An auctioneer holding a current license from Hennepin county and who is in compliance with the bonding requirements of Minnesota Statutes, chapter 330, is not required to obtain a license from the city. An auctioneer licensed by the county must submit proof of county licensure and compliance with bonding requirements at least 14 days prior to an auction to be held in the city.

1105.03. Conditions. Subdivision 1. Conduct. A person licensed as an auctioneer in the city is responsible for the manner in which that person conducts sales by auction; the conduct of such persons as may be employed to sell goods, wares or merchandise at a sale conducted by such auctioneer.

Subd. 2. Misrepresentations. The licensee may not make or permit to be made by the licensee's employees any untruthful statements or misrepresentations to bidders with reference to the articles offered for sale or as to the description, quality or kind of goods, wares or merchandise so offered.

Subd. 3. Deceptive practices. The licensee may not employ, use or permit the employment or use of by bidders of persons commonly known as "cappers", "boosters" or "shillers", nor offer or knowingly permit any person to offer or make a false or pretended bid or by any other artifice attempt improperly to induce bidders to make offers or bids or to purchase any goods, wares or merchandise, nor practice or permit the practice of any species of fraud or deceit in the selling or offering of such goods, wares or merchandise for sale at auction.

Subd. 4. Incentives. An auctioneer may not offer or give or permit to be offered or given any promises of merchandise or otherwise as an incentive to bidders.

Subd. 5. Noises. An auctioneer may not sell or attempt to sell or offer or cry for sale at public auction in the city any goods, chattels, wares, merchandise or personal property to any person upon the sidewalks or streets within the city, nor may any person by ringing a bell, gong, or triangle, or any loud cries upon any of the streets or sidewalks give notice of any auction or sale of any kind in the city.

Section 1110 - Motor vehicle dealers

1110.01. State licensing law adopted by reference. Minnesota Statutes, chapter 168 are hereby 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.

1110.03. Not to include auto wrecking. A dealer in motor vehicles licensed pursuant to this section is not authorized by the license to engage in the business of wrecking or dismantling motor vehicles. The wrecking and dismantling of motor vehicles, the keeping or storing for sale or selling of any used parts of motor vehicles, or the use of the premises and place of business of any licensed dealer in motor vehicles for the wrecking, dismantling, or storing of parts of motor vehicles is hereby prohibited unless the dealer has complied with section 1115 of this code relating to auto junk yards.

1110.05. State license required. A person may not 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. Every person holding such a license must file a copy of the current state certificate of license with the city clerk who must maintain a register of such licenses. Failure of a licensee to supply the city clerk with a copy of a current state license is a violation of the code.

1110.07. Off street parking. It is unlawful to park or leave on any public street or alley, any motor vehicle which the licensee may have for sale as a part of a business as a dealer in motor vehicles.

1110.09. Sunday and holidays. A licensee must entirely close the licensed place or places of sale licensed hereunder and may not conduct transactions relating to motor vehicles on or near said premises on any Sunday, legal holiday, or on any other day after 9:00 p.m. or before 8:00 a.m.

1110.11. Vehicle display. Motor vehicles that are being purchased or sold by the licensee hereunder may not be parked on the street or alley adjacent to the licensed premises, but all such vehicles must be located in an orderly arrangement on the licensed premises at all times, leaving driveways of sufficient width between the vehicles so that any vehicle can be driven or removed from the premises without the necessity of removing or moving any other vehicle located thereon.

1110.13. Sanitation of premises. The grounds of licensed premises must be kept in a clean and neat condition at all times and free of refuse, parts of vehicles, papers, weeds, etc. A licensee may not engage in or permit the unnecessary blowing of horns, flashing of vehicle lights, or racing of motors to the disturbance of persons occupying adjacent properties.

1110.15. Lighting. Floodlights may not be used on licensed premises but street lights of a reflector type may be used.

1110.17. Surface of lot. The parking and service drive areas of licensed premises must be hardtopped with asphalt or similar material and such surfacing must be kept in the state of good repair at all times.

1110.19. Building code conformance. Tents, temporary shacks or shelters may not be kept on a licensed premises or used thereon. A building located thereon or used for office purposes must meet the requirements of the building and plumbing ordinances of this code and must conform to the setback lines of the area in which it is located. The buildings must be kept well painted and in a state of good repair.

Section 1115 - Auto junk yards
(Deleted, Ord. No. 2010-07, Sec. 6)

Section 1120 - Automobile service stations

1120.01. License required. It is unlawful to engage in the business of operating, maintaining, conducting or keeping any gasoline, oil, kerosene, white gas, compressed natural gas, diesel fuel or liquified petroleum gas filling station, or any wholesale oil, gasoline, kerosene, white gas, compressed natural gas, diesel fuel or liquified petroleum gas storage plant in the city without first obtaining a license therefor from the council.

1120.03. Pumps. It is unlawful to keep, maintain or operate a gasoline pump or other gasoline, kerosene, white gas, compressed natural gas, diesel fuel or liquified petroleum gas dispensing device in the city without first obtaining a license therefor.

1120.05. Application. Application for licenses required by this section are to be made to the council in writing. If approved by the council, the license may be issued by the clerk after an inspection of the premises has been made by an officer or employee designated by the council to determine that the premises and the equipment for dispensing the products to be sold are adequate and safe for the conduct of the business.

1120.07. Fees. The license fees are set by appendix IV and may be prorated for periods of less than one year.

1120.09. Safety precautions. It is unlawful for a person in charge of or operating any filling station in the city to fill or allow to be filled with gasoline or diesel fuel the tank or tanks of any motor vehicle of any kind while the engine or motor of such motor vehicle is running. An owner or other person driving or in charge of any such motor vehicle may not fill or allow or cause the tank of the same to be filled with gasoline or diesel fuel while the engine or motor of such vehicle is running. It is unlawful to smoke or to allow smoking in or about gasoline, oil, kerosene, white gas, compressed natural gas, diesel fuel or liquified petroleum gas filling stations.

Section 1125 - Automatic dry cleaning and laundromats

1125.01. License required. It is unlawful to operate a coin-operated dry cleaning or self-service dry cleaning machine without a coin-operated dry cleaning license from the city. The license fee is set by appendix IV and may be prorated for a period of less than one year.

1125.03. Design. Subdivision 1. Type and location of building. A building that is to be used for coin-operated dry cleaning must be approved by the building inspector, the planning commission and council prior to installation of machinery or equipment. Approval of a basement except for furnace and boilers for this type of establishment will not be granted, and a part of a dwelling may not be used for a coin-operated dry cleaning business. The building must be a single story structure with concrete floors in good condition, of adequate size and height to conform to installation, layout, venting and safety provisions of this code.

Subd. 2. Plans and layout. Plans, layout, number of machines, venting, type of operation, a diagram of the solvent system, location of the boiler and furnace, must be submitted to the building inspector and the fire marshal prior to the installation thereof. Approval of the building inspector and the fire marshal is necessary prior to the granting of a license to operate. The proprietor must furnish the city with up-to-date, detailed installation, operating and maintenance manuals of the dry cleaning equipment machines to be installed.

1125.05. License conditions. Subdivision 1. Compliance. Until all the installation, operation, venting, health and safety requirements for this section are complied with, a license will not be granted to the owner or operator of a coin-operated dry cleaning business.

Subd. 2. Revocation. Failure on the part of the proprietor or operator of this type of business to maintain proper installation, operation, venting and health and safety standards is grounds for suspension or revocation of the license by the council.

Subd. 3. Combustible fluids. Licensed establishments must use a noncombustible cleaning fluid as prescribed by the manufacturer such as perchloroethylene and no ether fluid. The use of a combustible fluid such as naphtha, benzine or other combustible solvent or fluid is grounds for the revocation of the license.

Subd. 4. Inspection. The building inspector, fire marshal or health officer may enter the premises at any reasonable hour to obtain samples of the solvent or of the air and to insure compliance with this code.

1125.07. Toilet facilities. Separate rest rooms must be provided for each sex for each establishment. A minimum of one toilet and one lavatory must be provided for each rest room.

1125.09. Operator must be present. A competent, trained operator must be present at all times as long as the dry cleaning machines can be operated by the public. In the event such operator is not present then the dry cleaning machines must be made non-operative.

1125.11. Dry cleaning solvents. Subdivision 1. Storage. Dry cleaning solvents must be stored in closed containers, and must be transferred from the containers in a line free of leaks. Storage facilities for solvent, external from the equipment, must meet the requirements of this section.

Subd. 2. Residue. Filter residue and other residues containing solvent must be disposed of so as not to create a health hazard or nuisance. A covered metal container must be used for temporary storage in a ventilated room inaccessible to the public, or outside in a fenced and locked area.

Subd. 3. Protective equipment. Respirator protective equipment must be provided for maintenance personnel and must be kept in good repair and available for immediate use. Chemical cartridge respirators are approved for light solvent concentrations and the wearer must replace the cartridges immediately upon noting odor.

Subd. 4. Fire protection. A utility fire extinguisher, approved by the fire marshal, must be installed of either the carbon dioxide or dry chemical type and must be kept filled and in working condition for use against electrical or oil fires.

Subd. 5. Boiler; furnace. The location and construction of the boiler and furnace must be inspected and approved by the building inspector and fire marshal prior to operation thereof.

1125.13. Machine operation. Subdivision 1. Exhaust flow rate. Only the front or customer side of the dry cleaning machine may be exposed in the customer area. The working or maintenance portion of the equipment must be separated from the front of the machine by a solid partition. As a means of minimizing any solvent build-up in the customer area and also to control any minor solvent leakage, there must be a minimum flow rate from the customer area through the partition as follows:

Number of machines	Minimum flow rate per machine (CFM)
1 - 3	500
4 - 8	400
9 - 16	375
17 or more	360

(Example: an eight machine installation requires a minimum continuous exhaust flow rate of 3200 CFM.) The exhaust ventilation must be provided on a continuous basis while the store is open for business. The fan wiring must be such that the dry cleaning equipment cannot be operated unless the fan system is in operation. Where grille openings are installed in the partition to facilitate air movement, they should be sized on the basis of about 500 CFM per square foot of net grille area and should be placed as close to the machine as possible. An example would be the use of a 30 inch by six inch grille located directly over a machine. Access doors to the maintenance area must be kept locked.

Subd. 2. Ventilating fan. A general ventilation fan must be installed in the back room or maintenance area to be used in case of serious solvent leakage. This fan may be installed in the rear wall and must have a minimum exhaust capacity of 1000 CFM per machine.

Subd. 3. Exhaust system. The cleaning equipment must be provided with an exhaust system capable of maintaining a minimum of 100 feet per minute face velocity through the loading door whenever the door is open. The ductwork connections from this system must be soldered and the discharge stack extended to a minimum height of five feet above the roof line.

Subd. 4. Leak prevention. A satisfactory means of preventing liquid leaks from escaping the enclosure must be provided. This includes a method of “diking” the floor of the enclosure or machine base to hold a liquid volume equal to the maximum quantity of solvent which might possibly escape from the system. A means must be provided for draining solvent in the event of a leak and containment. This must be done by gravity flow with the solvent transferred to a standby holding tank. This tank must be vented to the outside.

Subd. 5. Interlock system. An interlock system must be provided on the machine to prevent the loading door from being opened during the normal cycle. This system may be either electrical or mechanical and so connected that in the event of a power failure the machine will operate in a safe manner.

Subd. 6. Instruction list. A step by step instruction list must be posted in a conspicuous location near the machine for customer use.

Subd. 7. Solvent sensing device. An approved solvent vapor sensing device, timer or other equivalent device must be installed within the tumbler to control the drying cycle and to prevent the removal of solvent-laden garments.

Subd. 8. Solvent tests. The machine design must be such that essentially no solvent is retained in the cleaned items upon completion of the dry cleaning cycle. A simple performance test which must be satisfied is the lack of any solvent odor in a closed automobile containing a newly cleaned load.

Subd. 9. Proprietor’s responsibility. The proprietor must make certain that clothing which cannot be properly cleaned and dried will not be placed in the machines.

Subd. 10. Machine checks. The machine must be checked daily and kept in good repair. All maintenance personnel must be familiar with necessary machine repairs and instructed as to the solvent hazards.

Subd. 11. Solvent odors. Solvent control is to be such that under normal operation and use conditions no solvent odor can be detected in the customer area. The concentration of solvent in the air in the customer area may not exceed 100 ppm as determined by approved Halide protection devices.

Subd. 12. Make-up air. A supply of tempered (heated to 60 or 65 degrees F.) make-up air equal to or greater than the total volume of air exhausted from the plant must be provided in order to eliminate any negative pressure conditions.

Subd. 13. Air contaminations. Solvent contaminated air even in very low concentrations (5-20 ppm) must be kept out of the air intakes of all combustion equipment so as to minimize the thermal decomposition of the solvent. Break-down products such as hydrochloric acid, free chlorine and phosgene corrode metal surfaces including flues and heat components and can seriously damage cloth through acid burns or weakening of fibers.

Subd. 14. Ventilating stacks. Exhaust ventilation stacks from dry cleaning machines must be located as far as possible from combustion air or drier air intakes.

1125.15. Laundromats. Subdivision 1. License. It is unlawful to operate a laundromat within the city that is used by the general public to wash or dry clothes without a license from the city. The license fee is set by appendix IV and may be prorated for a period of less than one year.

Subd. 2. Definition. "Laundromat" means an installation of two or more laundry machines at a given location for the water washing of clothes or the drying of wet clothes by the general public upon the payment of a stated charge. Such installation may have coin-activated machines and may contain other related laundry treatment equipment or facilities.

1125.17. General licensing requirements. All machines must be kept in good operating condition. Instructions as to how to use the machine must be conspicuously posted on the premises. Each proprietor must be responsible for keeping order at his place of business and must comply with the city ordinances and state law. Soft water must be provided for all washing machines. Hot water must be supplied in sufficient quantity to operate all of the washing machines efficiently at the same time. Premises must be kept clean, well-lighted and presentable in appearance.

1125.19. Toilet facilities. Separate rest rooms must be provided for each sex for each establishment. A minimum of one toilet and one lavatory must be provided for each rest room.

Section 1130 - Christmas tree sales

1130.01. Christmas trees. Subdivision 1. License. It is unlawful to engage in the business of offering for sale Christmas trees at retail or wholesale in the city without a license from the city. A license is required for each lot or location where the trees are sold.

Subd. 2. Definition. "Christmas tree sales" means the offering for sale at retail or wholesale of cut spruce, fir, balsam, or other type of evergreen trees, for use by others during and after the holiday known as Christmas.

Subd. 3. License fees. The license fees are set by appendix IV. The term of the license is from November 1 of any year to January 7 of the next year.

1130.03. Conditions of the license. Subdivision 1. Electrical. Electrical wiring for each lot or location must comply with the city electrical code.

Subd. 2 Deposit. A \$50 cash deposit is required from the licensee to guarantee that unsold Christmas trees, including branches and other debris, will be removed from the licensed location, to the satisfaction of the fire marshal, not later than one week after December 25th of each year or deposit will be forfeited to the city.

Subd. 3. Refusal of license. If a licensee for any reason forfeits the deposit posted the preceding year, the council may refuse a license to the licensee for a holiday period thereafter.

Subd. 4. Zoning. Retail or wholesale offer for sales of Christmas trees may be made only from land or premises located in a C-1 zoning district (commercial), except as otherwise approved by the city council for charitable or non-profit organizations.

Section 1131 – Fireworks
(Added, Ord. No. 2002-05, Sec. 1)

1131.01. Purpose. The purpose of this section is to regulate the sale of permitted consumer fireworks in order to protect the health, safety and welfare of the general public. The city council makes the following findings regarding the need to license and regulate the sale, distribution, storage and display of fireworks permitted under state law:

- a) Consumer fireworks contain pyrotechnic chemical compositions that are combustible; accordingly, the unregulated accumulation, storage, display and sale of these items present a fire safety hazard; and
- b) The improper disposal of consumer fireworks presents environmental hazards; and
- c) Due to their short-term and mobile nature, it is more difficult and demanding of city staff and public safety resources to enforce compliance with city ordinance and state law for temporary and transient sales of consumer fireworks than it is for established, permanent business.

1131.03. Sale of fireworks. It is unlawful to sell fireworks in the city of Crystal in violation of Minnesota Statutes, sections 624.20 through 624.25, inclusive, which are adopted by reference. “Consumer fireworks” as defined in this section may, however, be sold upon issuance of a license issued by the city.

1131.05. Definition. For the purposes of this section “consumer fireworks” is defined to mean wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

1131.07. Subdivision 1. Application. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where fireworks will be sold; the type of consumer fireworks to be sold; the estimated quantity of consumer fireworks that will be stored on the licensed premises.

Subd. 2. License prohibitions. No license shall be issued for the sale of permitted consumer fireworks at a movable place of business, including without limitation, mobile sales made from motorized vehicles, mobile sales kiosks, non-permanent stands or trailers or to transient merchants or as a seasonal or temporary sales license, unless the place of business complies with National Fire Protection Association Standard 1124 (2003 edition). (Amended, Ord. No. 2003-2)

1131.09. Processing application. The application must be filed with the city clerk together with the license fee. Following an inspection of the premises proposed to be licensed, the city manager or manager’s designee shall issue the license if the conditions for license approval are satisfied and the location is properly zoned. If the city manager or manager’s designee denies the license application, the applicant may, within ten days, appeal the decision to the city council. (Amended, Ord. No. 2003-2)

1131.11. Conditions of license. The license shall be issued subject to the following conditions:

- a) The license is non-transferable, either to a different person or location.
- b) The display of items for sale must comply with National Fire Protection Association Standard 1124 (2003 edition), which is incorporated herein by reference. (Amended, Ord. No. 2003-2)
- c) The license must be publicly displayed on the licensed premises.

- d) The premises are subject to inspection by city employees during normal business hours.
- e) The applicant must be at least 18 years of age.
- f) If the applicant does not own the business premises, a true and correct copy of the current, executed lease, as well as, the written authorization of the property owner for the applicant's use of the property for the sale of permitted consumer fireworks.
- g) The sale of consumer fireworks must be allowed by the zoning ordinance and must comply with all zoning ordinance requirements including signs.
- h) The applicant shall not have had a license to sell fireworks revoked within the last three years.
- i) The premises must be in compliance with the state building code and state fire code.

1131.13. License period and license fee. Licenses shall be issued for a calendar year. The license fee is established by resolution in appendix IV of the Crystal city code. License fees shall not be prorated. (Amended, Ord. No. 2003-2)

1131.15. Revocation of license. Following written notice and an opportunity for a hearing, the city manager or manager's designee may revoke a license for violation of this section or state law concerning the sale, use or possession of fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for 12 months. If the city manager or manager's designee revokes a license, the license holder may within ten days appeal the decision to the city council. (Amended, Ord. No. 2003-2)

Section 1135 - Cigarettes
(Repealed, Ord. No. 95-9, Sec. 2)

Section 1136 - Tobacco products
(Added, Ord. No. 95-9, Sec. 1)
(Effective, January 1, 1996)
(Repealed, Ord. No. 98-2)

Section 1137 - Tobacco
(Added, Ord No. 98-2)

1137.01. Definition. "Tobacco" means cigarettes; cigars; cheroots; stogies, perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices. means any substance or product containing tobacco leaf, including, but not limited to, cigars, cigarettes, snuff, chewing tobacco, dipping tobacco or cigarette paper or wrappers.

1137.03. General rule; application required. Subdivision 1. It is unlawful to buy for retail sale, sell at retail, or otherwise dispose for consideration tobacco without a license. (Amended, Ord. No. 2012-01, Sec. 1)

Subd. 2. Application required; contents. An application form provided by the city clerk must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

- a) Applicant name and address, including the name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant as a natural person, and a copy of the certificate issued by the Minnesota Secretary of State, as required by Minnesota Statutes, Section 333.01 as it may be amended.
- b) If the applicant does not own the business premises, a true and complete copy of the executed lease.

Subd. 3. Application execution. All applications for a license under this chapter must be signed and certified by the applicant. If the application is that of a natural person, it must be signed and certified by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

Subd. 4 Combination applications. The information required of the licensee may be combined with the application requirements of an additional license, such as licenses regulated by Section 1200 to minimize duplication in the application process.

Subd. 5. Financial responsibility. Prior to the issuance of a license the applicant must file with the city clerk satisfactory evidence of financial responsibility. "Satisfactory evidence of financial responsibility" shall be shown by a certification under oath that the property taxes, public utility bills, and all state and federal taxes or other governmental obligations or claims concerning the business entity applying for the license are current, and that no notice of delinquency or default has been issued, or if any of the financial obligations stated in this subsection are delinquent or in default, that any such delinquency or default is subject to a payment plan or other agreement approved by the applicable governmental entity. "Satisfactory evidence of financial responsibility" as required by this subsection shall in addition be shown by any individual applicant and all individual owners and/or shareholders of the business entity. Operation of a business licensed under this section without having on-going evidence on file with the city of the financial responsibility required by this subdivision is grounds for revocation or suspension of the license.

1137.05. Fees. The license fee is set by appendix IV. The license expires on December 31 annually. The license fee may be prorated for a portion of a year.

1137.07. Restriction. A tobacco product license will not be issued for a movable place of business. The license is issued only for the sale of tobacco products at a specific place of business.

1137.09. Prohibited sales and use. Subdivision 1. Sales to minors. It is unlawful to sell, offer for sale or deliver tobacco to a person under the age of 18 years.

Subd. 2. Use by minors. It is unlawful for any person under the age of 18 years to purchase, possess, or consume tobacco.

Subd. 3. Vending machines. The sale of tobacco by coin operated vending machines is prohibited.

Subd. 4. Individual packages. It is unlawful to offer for sale or to sell (i) cigarettes packaged in units smaller than a carton containing ten packages or (ii) single packages of smokeless tobacco in open displays that are accessible to the public without the intervention of a store employee.

1137.11. Penalties. Subdivision 1. Misdemeanors. A person who violates this section or Minnesota Statutes Chapter 297F, each as amended, is guilty of a misdemeanor. (Amended, Ord. No. 2012-01, Sec. 2)

Subd. 2. Administrative civil penalties; individuals. A person who sells tobacco to a person under the age of 18 years is subject to an administrative penalty. A person under the age of 18 who attempts to purchase tobacco is subject to an administrative penalty. The city council may impose administrative penalties under this subdivision as follows:

First violation: a civil fine in the amount of \$500.

Second violation within 24 months after the first violation: a civil fine in the amount of \$750.

Third violation within 36 months after the second violation: a civil fine in the amount of \$1,000. (Amended, Ord. No. 2001-07, Sec. 1)

Subd. 3. Administrative civil penalties; licensee. If a licensee or an employee of a licensee is found to have sold tobacco to a person under the age of 18 years, or committed a violation of Minnesota Statutes Chapter 297F, as amended, the city council may impose an administrative penalty as follows: (Amended, Ord. No. 2012-01, Sec. 2)

First violation: a civil fine in the amount of \$500 and license suspension for a period of ten days.

Second violation within 24 months after the first violation: a civil fine in the amount of \$750 and suspension of license for a period of 20 days.

Third violation within 36 months after the second violation: a civil fine in the amount of \$1,000 and suspension of license for a period of 30 days.

Fourth violation within 36 months after the third violation: revocation of license. (Amended, Ord. No. 2001-07, Sec. 2; Ord. No. 2002-09, Sec. 1)

Subd. 4. Defense. It is an affirmative defense to a charge of selling tobacco to a person under the age of 18 years in violation of this section that the licensee or individual making the sale relied in good faith upon proof of age as described in Minnesota Statutes, section 340A.503, subdivision 6.

Subd. 5. Education and training. In addition to or in lieu of any other penalty imposed under this section, any person under the age of 18 years who purchases, possesses, or consumes tobacco may be required to attend an educational seminar approved by the chief of police regarding the legal and medical implications of tobacco use.

Subd. 6. Presumptions regarding administrative penalties. The administrative penalties described in subdivisions 2 and 3 of this section are the presumed sanctions for the violations indicated. In the event of any license suspension imposed under subdivision 3, the city council may select which days a suspension will be served. Notwithstanding the provisions of subdivision 3, a license may be revoked for any violation of this section when in the judgment of the council it is appropriate to do so. The city council may impose lesser penalties under subdivisions 2 and 3 when in the judgment of the council it is appropriate to do so, provided that in no event will the amount of any fine or period of suspension be less than the amounts and periods specified in Minnesota Statutes, section 461.12, subdivisions 2 and 3, as amended. The city council may by resolution revise the amount of the above civil penalties stated in subdivisions 2 and 3 above, in Appendix IV. Other mandatory requirements may be made of the establishment, including but not limited to, meetings with the Police Department staff to present a plan of action to assure that the problem will not continue, mandatory education sessions with Crime Prevention staff, or other actions that the City Council deems appropriate. (Added, Ord. No. 2001-07, Sec. 3, Amended, Ord. No. 2012-01, Sec. 2)

1137.13. Compliance monitoring. Subdivision 1. The police department must periodically, but at least once a year, perform compliance checks on all cigarette licensees in the city. License applicants must be informed of this policy at the time of license application and renewal. Violators of this section may be subject to more frequent compliance monitoring than non-violating licensees. The police department must make an annual report to the city council on the compliance checks conducted pursuant to this section.

Subd. 2. Exemption. A person no younger than 15 nor older than 17 may be enlisted by the police department to assist in the compliance checks provided that (i) written consent from the person's parent or guardian has been obtained, and (ii) that the person must at all times act only under the direct supervision of a law enforcement officer or an employee of the licensing department or in conjunction with an in-house program that has been pre-approved by the police department. A person who purchases or attempts to purchase tobacco while acting in this capacity is exempt from the penalties imposed by this section.

Subd. 3. Additional checks. If a licensee or employee of a licensee is guilty of a second violation within the 24-month period since the initial violation, the police department must conduct at least one compliance check at that licensed premises within the time remaining in that 24-month period.

Section 1140 – Dumps
(Deleted, Ord. No. 2010-07, Sec. 7)

Section 1145 - Motor scooter,
motorcycle and motor bike rentals

1145.01. Motorcycle rentals. Subdivision 1. License. It is unlawful to engage in the business of furnishing, leasing or offering for rent motorcycles without a motorcycle rental license from the city.

Subd. 2. Definition. “Motorcycle” means a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and bicycles with motor attached, but excluding a tractor.

Subd. 3. License fees. The license fees are set by appendix IV. A license will not be issued for a fractional part of the calendar year.

1145.03. Conditions of license. Subdivision 1. Insurance. The applicant for a license must submit an insurance policy in force by an insurance company authorized to do business in the state of Minnesota, to be kept in force for the remainder of the license year, insuring such person, firm or corporation, their lessees or renters driving each of its motorcycles as defined herein against loss in the sum of at least \$25,000 for injury to or death of any one person in any one accident and \$50,000 per injury to or death of two or more persons in any one accident and \$5,000 because of damage to or destruction of property in any one accident resulting from the negligent ownership, operation, use or defective condition of any motorcycle belonging to such licensee. The policy of insurance must contain an endorsement to the effect that such policy covers operators and passengers of motorcycles leased or rented to minors and further, that the city must be notified by letter addressed to the city clerk thereof at least ten days prior to the cancellation of such policy of insurance.

Subd. 2. Rentals to licensed drivers. The licensee may not rent or lease a motorcycle to any person except the holder of a valid Minnesota driver’s license and subject to the limitations prescribed therein.

Subd. 3. Condition. Rented vehicles must be kept in good operating condition by the licensee.

Subd. 4. Instructions. The licensee must explain the operation including the controls, pedals, gears and brakes of the particular motorcycle to be used by each person leasing the same prior to driving the motorcycle unless the licensee is aware that the person knows how to operate the same. The licensee must stress safety and call attention to the user thereof of:

- a) the high maneuverability of the motorcycle, and
- b) the lack of protection of the person, of the driver or passenger, if the vehicle is upset.

1145.05. Investigation. The chief of police must investigate the traffic conditions in the immediate vicinity of applicant’s proposed motorcycle place of business, particularly on weekends and holidays, and make a report thereof to the city manager who must send copies to the city council.

Section 1150 - Taxicabs
(Repealed, Ord. No. 2000-11)

Section 1155 - Trailer camps
(Deleted, Ord. No. 2010-07, Sec. 8)

Section 1160 - Peddlers, solicitors and
transient merchants
(Repealed, Ord. 2007-05)
(Added, Ord. 2007-05)

1160.01. Definitions. For purposes of this section, the terms defined in this subsection have the meanings given them. Subdivision 1. "Person" means any person, individual, co-partnership, limited liability company and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient business in the state or city regulated by this section.

Subd. 2. "Peddler" means a person who goes from house to house, door to door, business to business, street to street, or any other type of place to place for the purpose of offering for sale, selling or attempting to sell, and delivering immediately upon sale the goods, wares, products, merchandise, or other personal property that the person is carrying or transporting; the term does not include vendors of milk, bakery products or groceries who distribute their products to regular customers on established routes. The term Peddler shall mean the same as the term "hawker".

Subd. 3. “Solicitor” means a person who goes from house to house, door to door, business to business, street to street, or any other type of place to place for the purpose of obtaining or attempting to obtain orders for the sale of goods, wares, or merchandise including magazines, books, periodicals, other personal property or services of which they 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 provisions if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term “canvasser”.

Subd. 4. “Transient merchant” means a person, whether as owner, agent, consignee, or employee who engages in a temporary business out of a vehicle, trailer, box car, tent, other portable shelter, store front, or from a parking lot for the purpose of displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than four consecutive days as part of four sale events each year.

1160.03. License required. It is unlawful to engage in the business of peddler, solicitor, or transient merchant in the city without first obtaining a license therefore as provided by this section, unless exempt from such license pursuant to the requirements of subsection 1160.09. In addition, no person shall conduct business as a transient merchant within the city limits without first having obtained the appropriate license from Hennepin County as required by Minnesota Statutes, Chapter 329, as amended.

1160.05. Application. Applications for a city license under this section must be filed with the city clerk on a sworn application in writing on a form provided by the city clerk. The application must contain the following information:

- a) Applicant’s full legal name and other names under which the applicant conducts business or to which the applicant officially answers;
- b) Physical description of the applicant (hair color, eye color, height, weight, distinguishing marks or features);
- c) Complete permanent home and local address of the applicant; and in the case of transient merchants, the local address from which proposed sales will be made with a letter of signed permission from the property owner;
- d) applicant’s phone number(s);
- e) A brief description of the nature of the business and the goods to be sold or services to be provided;
- f) The name, address, and phone number of the employer, principal, or supplier of the applicant, together with credentials establishing the exact relationship;
- g) The dates during which the applicant intends to conduct business and the names of its agents conducting business in the city;
- h) The supply source of the goods, or property prepared to be sold, or orders taken for the sale thereof, the location of such goods or products at the time of the application, and the proposed method of delivery;

- i) A recent photograph (approximately two inches by two inches) of the applicant, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- j) A statement as to whether or not the applicant has been convicted of any crime or violation of any municipal ordinance other than traffic violations, the nature of the offense, and the punishment or penalty assessed therefore;
- k) The names of up to three other municipalities where the applicant conducted similar business immediately preceding the date of the current application and the addresses from which such business was conducted within those municipalities;
- l) The applicant's driver's license number or other acceptable state-issued identification;
- m) The license plate number(s) and description of the vehicle(s) to be used in conjunction with the licensed business, if applicable;
- n) Proof of county license (applicable to transient merchants only).

1160.07. License fee. At the time of filing the application, the license fee set by subsection 1160.19, must be paid to the city clerk.

11.60.09. Exemptions. Subdivision 1. General exemption. For the purpose of the requirements of this section, the terms "peddler, solicitor, and transient merchant" shall not apply to and shall not include the following:

- a) Sale of personal property at wholesale to dealers in such articles;
- b) The sale of papers or newspaper subscriptions;
- c) Calling upon residents in connection with a regular route service for the sale and delivery of perishable daily necessities of life such as food, bakery products and dairy products. This section shall also 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;
- d) Calling upon residents at the request of said residents;
- e) A sale required by statute or by order of any court or prevent the conduct of a bona fide auction sale pursuant to law;
- f) Sales commonly known as garage sales, rummage sales, or estate sales as well as those persons participating in an organized, multi-person bazaar or flea market;
- g) A person issued an invitation by the owner or legal occupant of a residential premise shall be exempt from the definitions of peddlers, solicitors, and transient merchants.

Exemptions from this section shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

Subd. 2. Non-profit organizations and free expression exemption. Any organization, society, association, or corporation with a non-profit status approved by the state or federal government desiring to solicit or to have solicited in its name money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations for a charitable, religious, patriotic, or philanthropic purpose by going from house to house, door to door, business to business, street to street, or other type of place to place, or when such activity is for the purpose of exercising that person's state or federal constitutional rights relating to the free exercise of religion or speech, is exempt from the licensing requirements of subsection 1160.03, provided there is a registration filed in writing on a form to be provided by the city clerk which contains the following information:

- a) Organization's name and specific cause for which exemption is sought;
- b) Names and addresses of the officers and directors of the organization;
- c) Period during which solicitation is to be conducted;
- d) Whether or not any commission, fee, wages, or emoluments are to be expended in connection with such solicitation and the amount thereof; and
- e) Names and addresses of all persons involved in canvassing efforts.

Persons exercising constitutional rights may lose their exemption from licensing if the person's exercise of constitutional rights is merely incidental to a commercial activity. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of subsection 1160.03.

Subd. 3. Farm produce, horticultural, fireworks exemption. No license shall be required for any person to sell or attempt to sell or to take or attempt to take orders for any product grown, produced, cultivated, or raised on any farm. For the purposes of this section, "product" shall also mean any horticultural product grown, produced or cultivated and/or sold by any person in this state. Persons exempt under this subdivision shall register with the city as required by subdivision 2 of this subsection. The sale of fireworks shall be regulated by section 1131 of the city code. Notwithstanding any provision of the city's zoning code to the contrary, no conditional use permit or zoning approvals relating to accessory uses shall be required for sales regulated by this subsection.

1160.11. Investigation and issuance. The license application for non-exempt applicants must be referred to the chief of police or delegate who must immediately conduct a CCH Investigation of the applicant as authorized by section 311 of the city code and promptly return the application to the city clerk with a recommendation. The application will then be presented to the city council. (Amended, Ord. No. 2007-11, Sec. 3)

1160.13. License requirements. Subdivision 1. The license must contain the signature of the issuing officer and show the name, address, and photograph of the licensee, the date of issuance and expiration, and the license number.

Subd. 2. Duration. Each license shall be valid only for the period specified therein, and no license may extend beyond the 31st day of December of the year in which it is granted.

Subd. 3. License non-transferable. No license is transferable from one person to another. Each person involved in any activity regulated by this section shall be separately licensed even though associated with an organization licensed hereunder.

Subd. 4. Identification. Licensees must wear some type of identification conspicuously showing their name and the organization for which they are working and must carry their city issued license when conducting the business or activity required to be licensed.

1160.15. Prohibited activities. Subdivision 1. Loud noises and speaking devices. A person licensed under this section may not shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

Subd. 2. Use of streets. A person licensed or regulated under this section does not have an exclusive right to any location in the public streets, nor is such person permitted a permanent stationary location thereon. A person licensed under this section may not operate in a congested area where such operation might impede or inconvenience the public use of streets.

Subd. 3. Private property. Issuance of a license under this section does not permit the license holder to conduct the licensed activity on private property without the on-going permission of the property owner or the property owner's authorized agent. If such property is conspicuously posted by the owner or person in control with a sign stating "No trespassing", or "No solicitors or peddlers" or similar language, the entry thereon by any person subject to the licensing or registration requirements of this section without the permission of the owner or agent shall be a public nuisance punishable as a misdemeanor.

Subd. 4. Practices prohibited. No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

- a) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;
- b) Creating a direct threat to the health, safety, or welfare of any individual or the general public;
- c) Entering upon any residential premises for the purpose of carrying on the licensee's or registrant's trade or business between the hours of 8:00 p.m. and 9:00 a.m. of the following day, unless such person has been expressly invited to do so by the property owner or occupant thereof;
- d) Harassing, intimidating, abusing, or threatening a person, continuing to offer merchandise for sale to any person after being told not to do so by that person, or failing or refusing to leave the premises of the resident occupant after being told to do so by the resident occupant.

1160.17. Records. The chief of police must report to the city clerk all convictions for violation of this section. The city clerk must maintain a record for each license issued and record the reports of violation therein.

1160.19. Fee. The fees for licenses issued pursuant to this section are set by appendix IV.

Section 1165 - Tree trimming

1165.01. Definitions. For purposes of this section the term “tree trimming” means and includes the trimming of trees and the removal of trees and tree stumps on the property of another for hire.

1165.03. General provisions. It is unlawful to engage in the business of tree trimming in the city without first being licensed to do so pursuant to this section.

1165.05. Application; qualifications; fees. The application for a tree trimming license must be presented to the city clerk on forms provided by the city. The application must contain the following information:

- a) The name, address and business name of applicant;
- b) A list of the names and addresses of at least six persons for whom the applicant has performed tree trimming services within the 12 month period preceding the date of the application;
- c) A summary statement of applicant’s training, experience or special qualifications in the field of tree trimming;
- d) The name of any city or other governmental licensing authority which has issued or refused to issue a tree trimming license to the applicant or which has revoked or suspended such a license issued to the applicant.

The application must be accompanied by the fees required, bond and insurance certificate required by this section.

1165.07. Bond. An applicant for a license under this section must provide a surety bond in the amount of \$2,500 conditioned so that the licensed activity will be conducted in accordance with applicable state laws and city ordinances and that the licensee will save the city harmless from any liability, damage or expense which may be incurred by the city by reason of performance of such activity.

1165.09. Insurance. An applicant must file with the city clerk a certificate of insurance showing that the applicant has purchased public liability and workmen’s compensation insurance which will remain in effect for the term of the license, and that the insurance will not be cancelled without ten days notice to the city. The policy or policies of public liability insurance must provide public liability coverage to the applicant in the combined aggregate amount for any number of occurrences of death, bodily injury or property damage of \$300,000, and must name the city as an additional insured party.

1165.11. Issuance of license. Upon submission of the application and the required insurance, bond, and fees, the manager may, if in the manager’s judgment all conditions exist for the issuance of a license, issue a temporary license subject to final approval by the council. The council may require the applicant to appear before it prior to final approval of a license.

1165.13. Conditions of license. The license may be revoked or suspended in accordance with the provisions of appendix IV. The license terminates upon notice of cancellation of the insurance required by subsection 1165.09.

1165.15. Relation to other code provisions. Subdivision 1. General. Activities licensed by this section must be conducted in accordance with all applicable provisions of this code.

Subd. 2. Excavation permit. A license is not required for the removal of trees conducted pursuant to an excavation permit issued under section 415 of this code.

Subd. 3. Work in public ways. When conducting licensed activities in a public right-of-way the licensee must provide and maintain appropriate warning lights and barricades of the nature and quantity directed by the city engineer.

Subd. 4. Shade tree program. Persons licensed under this section must familiarize themselves with all aspects of the city's shade tree control program. Tree trimming or removal activities involving the treatment of diseased shade trees may not be conducted other than in conformance with section 2020 of this code.

1165.17. Fee. The fee for a license under this section is set by appendix IV.

Section 1170 - Massage
(Repealed, Ord. No. 96-10, Sec. 5)

Section 1175 - Secondhand goods dealers: pawnbrokers

(Repealed, Ord. No. 2005-19, Sec. 1)

(Added, Ord. No. 2005-19, Sec. 2)

Section 1175-Secondhand goods dealers

1175.01. Definitions. For purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 1. "Secondhand goods dealer" means a person whose regular business includes selling or receiving tangible personal property (excluding motor vehicles) previously used, rented, owned or leased.

1175.03. 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 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 1110 as a motor vehicle dealer;
- c) the sale of secondhand books or magazines;
- d) the sale of goods at an auction held by a licensed auctioneer pursuant to section 1105;
- e) the business of buying or selling only those secondhand goods taken as part or full payment for new goods, and where such business is incidental to and not the primary business of a person;
- 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) goods sold at a public market;
- h) goods sold at an exhibition;

- i) the sale of secondhand clothing and personal clothing accessories including costume jewelry but excluding other jewelry; provided, however, that a license is required under subsection 1175.11 for which the annual fee is set by appendix IV; or
- j) the sale of items that have been donated to the seller and not purchased or received on consignment for resale by the seller; provided, however, that a license is required under subsection 1175.11 for which the annual fee is set by appendix IV.
- k) transactions involving coins, bullion, or ingots. (Amended Ord. 2011-12, Sec. 1)

1175.05. License required. Subdivision 1. Secondhand goods dealer. A person may not engage in the business of secondhand goods dealer without first obtaining a secondhand goods dealer license.

Subd. 2. Separate license required. A secondhand goods dealer may not conduct, operate or engage in the business of pawnbroker without having obtained a pawnbroker license as required by section 1177, in addition to a secondhand goods dealer license.

1175.07. Multiple dealers. Subdivision 1. Licenses. 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.

1175.09. License fee. Subdivision 1. Secondhand goods dealer. The annual license fee for a secondhand goods dealer, and a secondhand goods dealer also licensed as a pawnbroker, is set by appendix IV.

Subd. 2. 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 IV.

1175.11 Application required. Subdivision 1. Contents. An application form provided by the city clerk must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information: (Amended, Ord. No. 2012-01, Sec. 3)

a) If the applicant is a natural person:

- 1) The name, place and date of birth, street resident address, and phone number of applicant.
- 2) Whether the applicant is a citizen of the United States or resident alien.
- 3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.
- 4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by Minnesota Statutes, Section 333.01 as it may be amended.
- 5) The street address at which the applicant has lived during the preceding five years.
- 6) The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the proceeding five years.
- 7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.
- 8) The physical description of the applicant.
- 9) Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to application.
- 10) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a) through d) of subdivision 1 of subsection 1175.11.

b) If the applicant is a partnership:

- 1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in subdivision 1 of this section.

2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business.

3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, section 333.01, as it may be amended, a certified copy of such certificate must be attached to the application.

4) A true copy of the federal and state tax returns for partnership for the two years prior to application.

5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a) through d) of subdivision 1 of subsection 1175.11.

c) If the applicant is a corporation or other organization:

1) The name of the corporation or business form, and if incorporated, the state of incorporation.

2) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, section 303.06, as it may be amended, must be attached. Any proposed change in either the articles or the by-laws of the corporation must be reported to the city clerk 14 days prior to the date such change is to be adopted by the corporation. In the case of a corporate application the application must also describe fully the relationship of the corporation to any other corporation including the name, business address, state of incorporation, names of stockholders, directors and officers thereof as provided hereafter, but in the case of publicly held corporations the city manager may accept disclosure documents required by the Securities and Exchange Commission of the United States of America in lieu of such information.

3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in a) through d) of subdivision 1 of subsection 1175.11.

4) A list of all persons who control or own an interest in excess of 5% in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subdivision 1 above. This subdivision c), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

- d) For all applicants:
- 1) Whether the applicant holds a business license from any other governmental unit.
 - 2) Whether the applicant has previously been denied, or had revoked or suspended, a business license from any other governmental unit.
 - 3) The location of the business premises.
 - 4) If the applicant does not own the business premises, a true and complete copy of the executed lease.
 - 5) The legal description of the premises to be licensed.
 - 6) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
 - 7) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed.
 - 8) Such other information as the city council or issuing authority may require.

Subd. 2. Manager. When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days. The application must include all appropriate information required in this section. (Amended, Ord. No. 2012-01, Sec. 3)

Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this chapter. If the investigation process is conducted solely within the state of Minnesota, the fee shall be \$500.00. If the investigation is conducted outside the state of Minnesota, the issuing authority may recover the actual investigation costs not exceeding \$10,000.00.

Subd. 3. Application execution. All applications for a license under this chapter must be signed and certified by the applicant. If the application is that of a natural person, it must be signed and certified by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. (Added, Ord. No. 2012-01, Sec.3)

Subd. 4. Financial responsibility. Prior to the issuance of a license the applicant must file with the city clerk satisfactory evidence of financial responsibility. "Satisfactory evidence of financial responsibility" shall be shown by a certification under oath that the property taxes, public utility bills, and all state and federal taxes or other governmental obligations or claims concerning the business entity applying for the license are current, and that no notice of delinquency or default has been issued, or if any of the financial obligations stated in this subsection are delinquent or in default, that any such delinquency or default is subject to a payment plan or other agreement approved by the applicable governmental entity. "Satisfactory evidence of financial responsibility" as required by this subsection shall in addition be shown by any individual applicant and all individual owners and/or shareholders of the business entity. Operation of a business licensed under this section without having on-going evidence on file with the city of the financial responsibility required by this subdivision is grounds for revocation or suspension of the license. (Added, Ord. No. 2012-01, Sec.3)

Subd. 5. Fees. The application must be accompanied by the required license fee. The fee will be returned to the applicant if the application is rejected. (Amended, Ord. No. 2012-01, Sec.3)

Subd. 6. 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. (Amended, Ord. No. 2012-01, Sec.3)

1175.13. Bond. A secondhand goods dealer license will not be issued unless the applicant files with the city clerk a bond with corporate surety, cash, or a United States government bond in the amount of \$3,000. 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.

1175.15. Site plan. The application for a secondhand goods dealer license must be accompanied by a site plan drawn to scale. The site plan must contain:

- a) a legal description of the property upon which the proposed licensed premises is situated;
- b) a plot plan;
- 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;
- d) the location of and distance from the nearest church, school, hospital, and residence; and
- e) a floor plan of the licensed premises.

1175.17. Investigations. Subdivision 1. Duties of chief of police. A new or renewal application for a license as a secondhand goods dealer will be referred to the chief of police for a CCH Investigation as authorized by section 311 of the city code, of each individual. Every individual or person having any beneficial interest in the license must be so investigated. The chief must make necessary inquiry and list all violations of federal and state law or municipal ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. The chief must report the findings and comments to the manager who must order or conduct such additional investigations as the manager deems necessary or as the council directs. (Amended, Ord. No. 2007-11, Sec. 4, Amended, Ord. No. 2012-01, Sec. 4)

Subd. 2. Fee. The fee charged by the city to an applicant for the costs of investigation is set by appendix IV. 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 city clerk.

1175.19. 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 secondhand goods dealer license. A license will not be effective unless the application fee and bond have been filed with the city clerk.

1175.21. Persons ineligible for license. A secondhand goods dealer license 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, damage or trespass to property, or any law or ordinance; regulating the business of pawnbroker or secondhand goods dealer;
- d) a person who within five years of the license application date had a pawnbroker or secondhand goods dealer license revoked;
- e) a person whom the city council determines not to be of sufficient good moral character and repute; or
- f) when the city council determines, after investigation and public hearing, if required, that issuance or renewal of the license would adversely affect the public health, safety or welfare.

1175.23. Places ineligible for license. A license will not be issued or renewed under this section for any place or for any business:

- a) if taxes, assessments or other financial claims of the city or the state of Minnesota on the licensee's business premises are delinquent and unpaid;
- b) if the premises is located within 300 feet of a school or church;
- c) where operation of a licensed premises would violate zoning ordinances; or
- d) 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.

1175.25. Conditional licenses. The council may grant an application for a new or renewed secondhand goods dealer license conditioned upon the applicant making reasonable improvements to the proposed business premises or the property upon which the business premises is situated. 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.

1175.27. 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 specified in the approved license application.

1175.29. Term; expiration; pro rata fee. The license is issued for a period of one year beginning on January 1 except that 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 rata fee. An unexpired fraction of a month will be counted as a complete month. The license expires on December 31.

1175.31. Refunds. The city clerk will refund a pro rata share of the license fee for a license to the licensee or the licensee's estate if:

- a) the business ceases to operate because of destruction or damage;
- b) the licensee dies;
- c) the business ceases to be lawful for a reason other than a license revocation; or
- d) the licensee ceases to carry on the licensed business under the license.

1175.33. Death of licensee. In the case of the death of a licensee the personal representative of the licensee may continue operation of the business for not more than 90 days after the licensee's death.

1175.35. Records.

- a) Requirements for preparation of reports by licensed secondhand goods dealers. A licensed secondhand goods dealer, at the time of receipt of an item, must immediately record, in ink or other indelible medium in a book or word processing unit, the following information:
 - 1) an accurate description of the item including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such item;
 - 2) the purchase price;
 - 3) date, time and place of receipt;
 - 4) name, address and date of birth of the person from whom the item was received;
 - 5) the identification number from any of the following forms of identification of the seller:
 - i) valid picture driver's license;
 - ii) picture identification;

- iii) medicard.
- b) Retention and inspection of records. The records 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.

1175.37. Daily reports.

- a) Requirements for daily reports to police by secondhand goods dealers. For the following items, regardless of resale price, a secondhand goods dealer must make out, on forms approved by the police department, and send daily by mail to the police department a legible description of the goods received during the preceding day, together with the time received and a description of the person from whom the goods were received:
 - 1) items with a serial number identification, or “operation identification” or similar program symbol;
 - 2) cameras;
 - 3) electronic audio or video equipment;
 - 4) precious jewelry or gems, and precious metals;
 - 5) artist-signed or artist-attributed works of art;
 - 6) guns and firearms; and
 - 7) items not included in the above, except furniture and kitchen or laundry appliances, which the secondhand goods dealer intends to sell for more than \$200.

1175.39. Stolen goods. A licensed secondhand goods dealer must report to the police any article received, or sought to be received, if the licensee has reason to believe that the article was stolen or lost.

1175.41. Holding goods. An item received by a secondhand goods dealer for which a report to the police is required, may not be sold or otherwise transferred for a period of 30 days after the date of such report to the police.

1175.43. Receipt. A licensed secondhand goods dealer must provide a receipt to the seller or consignor of any items which includes:

- a) the address and phone number of the business;
- b) the date;

- c) a description of the item purchased; and
- d) the purchaser's signature.

1175.45. Police orders. If a city police officer notifies a dealer not to sell an item, the item may not be sold or removed from the licensed premises until authorized to be released by the police.

1175.47. Weapons. A licensed secondhand goods dealer may not receive as a pledge or otherwise accept for consignment or sale any revolver, pistol, sawed-off shotgun, automatic rifle, blackjack, switchblade knife, or other similar weapons or firearms.

1175.49. Prohibited acts. Subdivision 1. Minors. A person under the age of 18 ("minor") may not sell or consign, or attempt to sell or consign, goods with a secondhand goods dealer. A secondhand goods dealer may not receive goods from a minor.

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

Subd. 3. Identification. A secondhand goods dealer may not receive goods, unless the seller presents identification in the form of a valid driver's license or identification card issued by the State of Minnesota, another State or a province of Canada.

1175.51. License denial; suspension or revocation; penalties. Subdivision 1. 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: (Amended Ord. No. 2012-01, Sec. 5)

- 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, a violation within the preceding five years of any state or federal law relating to theft, receiving stolen property, burglary, robbery, forgery, damage or trespass to property, sale of a controlled substance or stolen good, or operation of a business.

Subd. 2. Fee. The fee charged by the city to an applicant for the costs of investigation is set by appendix IV. 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 city clerk. (Added, Ord. No. 2012-01, Sec. 5)

Subd. 3 Penalties. (Added, Ord. No. 2012-01, Sec. 5)

a) Misdemeanors. A person who violates this section is guilty of a misdemeanor unless otherwise provided by law.

b) Administrative civil penalties; licensee. If a licensee or an employee of a licensee is found to have violated this section, the city council may impose an administrative penalty as follows:

- 1) First violation: a civil fine in the amount of \$500 and license suspension for a period of ten days.
- 2) Second violation within 24 months after the first violation: a civil fine in the amount of \$750 and suspension of license for a period of 20 days.
- 3) Third violation within 36 months after the second violation: a civil fine in the amount of \$1,000 and suspension of license for a period of 30 days.
- 4) Fourth violation within 36 months after the third violation: revocation of license.

Subd. 4. Presumptions regarding administrative penalties. The administrative penalties described in subdivision 3 of this section are the presumed sanctions for the violations indicated. In the event of any license suspension imposed under subdivision 3, the city council may select which days a suspension will be served. Notwithstanding the provisions of subdivision 3, a license may be revoked for any violation of this section when in the judgment of the council it is appropriate to do so. The city council may impose lesser penalties under subdivision 3 when in the judgment of the council it is appropriate to do so. The city council may by resolution revise the amount of the above civil penalties stated in subdivision 3 above, in Appendix IV. Other mandatory requirements may be made of the establishment, including but not limited to, meetings with the Police Department staff to present a plan of action to assure that the problem will not continue, mandatory education sessions with Crime Prevention staff, or other actions that the City Council deems appropriate. (Added, Ord. No. 2012-01, Sec. 5)

1175.53. Deleted, Ord. No. 2012-06, Sec.1)

1175.55. 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.

1175.57. County license. Secondhand goods dealers dealing in precious metals and gems must be licensed by Hennepin County.

Section 1177 – Pawnbrokers
(Added, Ord. No. 2005-20, Sec. 1)

1177.01. Purpose. The city council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The city council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The city council further finds that the pawn industry has outgrown the city’s current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this chapter is to prevent pawn businesses from being used as facilities for the commission of crimes, and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

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

1177.03. Definitions. When used in this section, the following words shall mean:

“Pawnbroker” means any natural person, partnership or corporation, either as principal, or agent or employee thereof, 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. To the extent that a pawnbroker’s business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

“Reportable transaction” means every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

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

“Billable transaction” means every reportable transaction conducted by a pawnbroker is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee’s possession, voided transactions, and confiscations.

1177.05. License required; license fees. Subdivision 1. License required. It is unlawful to conduct, operate or engage in the business of a pawnbroker without first having obtained a license.

Subd. 2. Annual fee. The annual license fees for licenses issued under this chapter shall be set by appendix IV.

Subd. 3. Fee adjustments. The billable transaction license 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.

Subd. 4. Billing of fees. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this section.

1177.07. Application required. Subdivision 1. Contents. An application form provided by the city clerk must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

- a) If the applicant is a natural person:
 - 1) The name, place and date of birth, street resident address, and phone number of applicant.
 - 2) Whether the applicant is a citizen of the United States or resident alien.
 - 3) Whether the applicant has ever used or has been known by a name other than the applicant’s name, and if so, the name or names used and information concerning dates and places used.
 - 4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by Minnesota Statutes, Section 333.01 as it may be amended.
 - 5) The street address at which the applicant has lived during the preceding five years.
 - 6) The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant’s employer(s) and partner(s), if any, for the preceding five years.

- 7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.
 - 8) The physical description of the applicant.
 - 9) Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to application.
 - 10) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a) through d) of subdivision 1 of subsection 1177.07.
- b) If the applicant is a partnership:
- 1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in subdivision 1 of this section.
 - 2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business.
 - 3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, section 333.01, as it may be amended, a certified copy of such certificate must be attached to the application.
 - 4) A true copy of the federal and state tax returns for partnership for the two years prior to application.
 - 5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a) through d) of subdivision 1 of subsection 1177.07.
- c) If the applicant is a corporation or other organization:
- 1) The name of the corporation or business form, and if incorporated, the state of incorporation.

- 2) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, section 303.06, as it may be amended, must be attached. Any proposed change in either the articles or the by-laws of the corporation must be reported to the city clerk 14 days prior to the date such change is to be adopted by the corporation. In the case of a corporate application the application must also describe fully the relationship of the corporation to any other corporation including the name, business address, state of incorporation, names of stockholders, directors and officers thereof as provided hereafter, but in the case of publicly held corporations the city manager may accept disclosure documents required by the Securities and Exchange Commission of the United States of America in lieu of such information. (Amended 2012-01, Sec. 6)
 - 3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in a) through d) of subdivision 1 of subsection 1177.07.
 - 4) A list of all persons who control or own an interest in excess of 5% in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subdivision 1 above. This subdivision c), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.
- d) For all applicants:
- 1) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit.
 - 2) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit.
 - 3) The location of the business premises.
 - 4) If the applicant does not own the business premises, a true and complete copy of the executed lease.
 - 5) The legal description of the premises to be licensed.
 - 6) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

- 7) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed.
- 8) Such other information as the city council or issuing authority may require.

Subd. 2. Manager. When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days. The application must include all appropriate information required in this section.

- a) Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this chapter. If the investigation process is conducted solely within the state of Minnesota, the fee shall be \$500.00. If the investigation is conducted outside the state of Minnesota, the issuing authority may recover the actual investigation costs not exceeding \$10,000.00.

Subd. 3. Application execution. All applications for a license under this chapter must be signed and certified by the applicant. If the application is that of a natural person, it must be signed and certified by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. (Amended 2012-01, Sec. 6)

Subd. 4. Investigation. Duties of chief of police. A new or renewal application for a license as a pawnbroker will be referred to the chief of police for a CCH Investigation as authorized by section 311 of the city code, of each individual. Every individual or person having any beneficial interest in the license must be so investigated. The chief must make necessary inquiry and list all violations of federal and state law or municipal ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. The chief must report the findings and comments to the manager who must order or conduct such additional investigations as the manager deems necessary or as the council directs. (Amended, Ord. No. 2007-11, Sec. 5, Amended, Ord. No. 2012-01, Sec. 7)

Subd. 5. Public hearing. A new pawnbroker license will not be issued without a public hearing. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. The public hearing must be preceded by ten days' published notice specifying the location of the proposed licensed business premises. (Amended, Ord. No. 2010-09, Sec. 1)

Subd. 6. Persons ineligible for a license. No licenses under this chapter will be issued to an applicant who is a natural person, a partnership if such applicant has any general partner or managing partner, a corporation or other organization if such applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

- a) Is a minor at the time that the application is filed;
- b) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, section 364.03, subdivision 2, as it may be amended, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by Minnesota Statutes, section 364.03, subdivision 3, as it may be amended; or
- c) Is not of good moral character or repute.

Subd. 7. Financial responsibility. Prior to the issuance of a license the applicant must file with the city clerk satisfactory evidence of financial responsibility. "Satisfactory evidence of financial responsibility" shall be shown by a certification under oath that the property taxes, public utility bills, and all state and federal taxes or other governmental obligations or claims concerning the business entity applying for the license are current, and that no notice of delinquency or default has been issued, or if any of the financial obligations stated in this subsection are delinquent or in default, that any such delinquency or default is subject to a payment plan or other agreement approved by the applicable governmental entity. "Satisfactory evidence of financial responsibility" as required by this subsection shall in addition be shown by any individual applicant and all individual owners and/or shareholders of the business entity. Operation of a business licensed under this section without having on-going evidence on file with the city of the financial responsibility required by this subdivision is grounds for revocation or suspension of the license. (Added 2012-01, Sec. 8)

1177.09. Bond required. Before a license will be issued, every applicant must submit a \$5,000.00 bond on the forms provided by the city. All bonds must be conditioned that the principal will observe all state laws and city ordinances in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30 days written notice to the city, which shall be served upon the licensing authority.

1177.11. Records required. At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

- a) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- b) The purchase price, amount of money loaned upon, or pledged therefor.
- c) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- d) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.
- e) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.
- f) The identification number and state of issue from any of the following forms of identification of the seller:
 - 1) Current valid Minnesota driver's license.
 - 2) Current valid Minnesota identification card.
 - 3) Current valid photo identification card issued by another state or province of Canada.
- g) The signature of the person identified in the transaction.
- h) Effective 60 days from the date of notification by the police department of acceptable video standards the licensee must also take a color photograph or color video recording of:
 - 1) Each customer involved in a billable transaction.
 - 2) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

- 3) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief's designee, upon request. The major portion of the photograph must include an identifiable facial image of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that they are being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must focus on the person pawning or selling the item so as to include an identifiable image of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that they are being videotaped by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months.
- i) Digitized photographs. Effective 60 days from the date of notification by the police department licensees must fulfill the color photograph requirements in subsection 1177.11 h) by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding that the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in subsection 1177.11 h).
- j) Renewals, extensions, redemptions and confiscations. For renewals, extensions, redemptions and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
- k) Inspection of records. The records must at all reasonable times be open to inspection by the police department or department of licenses and consumer services. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

1177.13. Daily reports to police. Subdivision 1. Reportable transactions. Effective no later than 60 days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification, licensees must submit every reportable transaction to the police department daily in the following manner:

- a) Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the police department daily.

Subd. 2. Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department.

- a) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day.
- b) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in subsection 1177.13, subdivision 1, and shall be charged a \$50.00 reporting failure penalty, daily, until the error is corrected.
- c) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the reports required by subsection 1177.13, subdivision 1, and must resubmit all such transactions via modem when the error is corrected.
- d) If a licensee is unable to capture, digitize or transmit the photographs required in subsection 1177.11 i), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request.
- e) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.
- f) Subsections 1177.13, subdivision 1 through subdivision 2 e) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

1177.15. Receipt required. Subdivision 1. Information on receipt. Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:

- a) The name, address and telephone number of the licensed business.
- b) The date and time the item was received by the licensee.
- c) Whether the item was pawned or sold, or the nature of the transaction.
- d) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- e) The signature or unique identifier of the licensee or employee that conducted the transaction.
- f) The amount advanced or paid.
- g) The monthly and annual interest rates, including all pawn fees and charges.
- h) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- i) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller.
- j) The identification number and state of issue from any of the following forms of identification of the seller:
 - 1) Current valid Minnesota driver's license.
 - 2) Current valid Minnesota identification card.
 - 3) Current valid photo driver's license or identification card issued by another state or province of Canada.
- k) Description of the pledger or seller including sex, approximate height and weight, race, color of eyes and color of hair.
- l) The signature of the pledger or seller.
- m) All printed statements as required by Minnesota Statutes, section 325J.04, subdivision 2, as it may be amended, or any other applicable statutes.

1177.17. Redemption period. Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90-day holding period, items may not be removed from the licensed location except as provided in subsection 1177.31. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the chief of police, or chief's designee. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with subsection 1177.11 k). (Amended, Ord. 2006-07, Sec. 1)

1177.19. Holding period. Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

1177.21. Police order to hold property. Subdivision 1. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to subsection 1177.21, subdivision 2 or 3, whichever comes first.

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

Subd. 3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:

- a) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or
- b) Place the item on hold or extend the hold as provided in subsection 1177.21, subdivision 2, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

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

1177.23. Inspection of items. At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in subsection 1177.31, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.

1177.25. Label required. Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

1177.27. Prohibited acts. The following acts are prohibited:

- a) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.
- b) No licensee may receive any goods from a person of unsound mind or an intoxicated person.
- c) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid state of Minnesota identification card, or current valid photo driver's license or identification card issued by the state or province of residency of the person from whom the item was received.
- d) No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
- e) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.
- f) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

1177.29. Denial, suspension or revocation; penalties. Subdivision 1. Denial, suspension or revocation. Any license under this chapter may be denied, suspended or revoked for one or more of the following reasons: (Amended 2012-01, Sec. 9)

- a) The proposed use does not comply with any applicable zoning code.
- b) The proposed use does not comply with any health, building, building maintenance or other provisions of this code of ordinances or state law.
- c) The applicant or licensee has failed to comply with one or more provisions of this chapter.
- d) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.
- e) Fraud, misrepresentation or bribery in securing or renewing a license.
- f) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.
- g) Violation within the preceding five years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.
- h) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this section.
- i) Pawnbrokers dealing in precious metals and gems must be licensed by Hennepin County.

Subd. 2 Penalties. (Added Ord. No. 2012-01, Sec. 9)

- a) Misdemeanors. A person who violates this section is guilty of a misdemeanor unless otherwise provided by law.
- b) Administrative civil penalties; licensee. If a licensee or an employee of a licensee is found to have violated this section, the city council may impose an administrative penalty as follows:
 - 1) First violation: a civil fine in the amount of \$500 and license suspension for a period of ten days.
 - 2) Second violation within 24 months after the first violation: a civil fine in the amount of \$750 and suspension of license for a period of 20 days.
 - 3) Third violation within 36 months after the second violation: a civil fine in the amount of \$1,000 and suspension of license for a period of 30 days.
 - 4) Fourth violation within 36 months after the third violation: revocation of license.

Subd. 3. Presumptions regarding administrative penalties. The administrative penalties described in subdivision 3 of this section are the presumed sanctions for the violations indicated. In the event of any license suspension imposed under subdivision 3, the city council may select which days a suspension will be served. Notwithstanding the provisions of subdivision 3, a license may be revoked for any violation of this section when in the judgment of the council it is appropriate to do so. The city council may impose lesser penalties under subdivision 3 when in the judgment of the council it is appropriate to do so. The city council may by resolution revise the amount of the above civil penalties stated in subdivision 3, in Appendix IV. Other mandatory requirements may be made of the establishment, including but not limited to, meetings with the Police Department staff to present a plan of action to assure that the problem will not continue, mandatory education sessions with Crime Prevention staff, or other actions that the City Council deems appropriate. (Added Ord. No. 2012-01, Sec. 9)

1177.31. Business at only one place. A license under this section authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the chief of police, or chief's designee, may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with subsection 1177.13. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premise that extends for more than six months.

1177.33. Severability. Should any section, subsection, clause or other provision of this chapter be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the ordinance as a whole or any part other than the part so declared invalid.

Section 1180 - Amusement centers

1180.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Machine" means, but is not limited to, a mechanical amusement device of any of the following types:

- a) A machine or electronic contrivance, including "pinball" machines, mechanical miniature pool tables, bowling machines, shuffle boards, electric rifle or gun ranges, miniature mechanical and electronic devices and games or amusements patterned after baseball, basketball, hockey and similar games and like devices, machines or games which may be played solely for amusement and not as a gambling device and which devices or games are played by the insertion of a coin or coins or at a fee fixed and charged by the establishment in which such devices or machines are located, and which contain no automatic payoff devices for the return of money, coins, merchandise, checks, tokens or any other thing or item of value; provided, however, that such machine may be equipped to permit a free play or game: the term does not include coin-operated music machines.
- b) Amusement devices designed for and used exclusively as rides by children, such as, but not limited to, kiddie cars, miniature airplane rides, mechanical horses, and other miniature mechanical devices, not operated as a part of or in connection with any carnival, circus, show, or other entertainment or exhibition.

Subd. 3. "Amusement center" means a business at one location devoted primarily to 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 guardian.

1180.03. Licenses. Subdivision 1. General rules. It is unlawful to keep, operate, maintain or permit to be operated or maintained upon premises within an applicants direct or indirect control an amusement center or any machine therein, without having first procured an amusement center license and a license for each machine under the provisions of this code.

Subd. 2. Amusement center license. It is unlawful to own, operate or permit operation of an amusement center on premises owned, leased, or operated by an applicant or engage in the business of operating an amusement center unless an annual amusement center license has been obtained.

Subd. 3. Application. The application for an amusement center license must contain the following information:

- a) Name and address of the applicant, age, date, and place of birth.
- b) Place where machine or device is to be displayed or operated, the business conducted at that place, and the zoning classification.
- c) If the interest of the applicant be that of a corporation or other business entity, the names of any persons having a 5% or more interest in said business entity must be listed.

- d) Applications must conform to the provisions of this section, and must also include a statement that the applicant, if requested by the city clerk, will permit a record of his fingerprints to be made by the police department for the purpose of additional investigation to determine whether or not the application should be granted.

Subd. 4. License fees. The license fee for an amusement center license is set by appendix IV and may be pro-rated for a partial year. The license fees are in lieu of all other fees for amusement devices or machines under this code.

Subd. 5. Council approval. The application for an amusement center license must be presented to the city council for consideration, and if approved, the city clerk must issue the license to the applicant.

1180.05. Insurance. If the machines to be operated in the amusement center are of the type described in subsection 1, subdivision 2, clause b), the applicant must also submit with his application a policy of liability insurance applicable to death or injury caused by the operation of the licensed machine, in the minimum amounts of \$100,000 for injury to or death of any person or \$300,000 for one accident.

1180.07. Inspection. Subdivision 1. Police review. Application for an amusement center license must be made in duplicate, and one copy must be referred to the chief of police who must investigate the location wherein it is proposed to operate an amusement center, ascertain if the applicant is a person of good moral character, and may recommend approval or disapproval of the application.

Subd. 2. Duty of police department. Each amusement center licensed under this section must be inspected by the police department.

1180.09. Display of license. The license must be posted permanently and conspicuously at the location of the amusement center.

1180.11. Amusement centers restrictions. Subdivision 1. Nuisance. An amusement center and a coin-operated musical or other musical device therein may not be operated so as to constitute a public nuisance.

Subd. 2. Order. It is the responsibility of the licensee to maintain order on the licensed premises at all times.

Subd. 3. Fire hazards. It is the responsibility of the licensee to see that the licensed premises does not become overcrowded so as to constitute a hazard to the health or safety of persons therein. The fire marshal must designate and post the maximum number of persons to be permitted on the licensed premises.

Subd. 4. Supervision. The licensee must provide a full-time attendant of 21 years of age or over upon the licensed premises during business hours.

Subd. 5. Liquor and beer. It is unlawful for a person operating an amusement center to sell, offer for sale, or knowingly permit to be sold or offered for sale, or to be dispensed or consumed or knowingly brought on the licensed premises any alcoholic beverages or narcotic drugs, or to knowingly allow any illegal activity upon the licensed premises.

Subd. 6. Posting. An amusement center must have affixed on its premises in plain view a decalcomania evidencing the issuance of its license, and each machine on the licensed premises must have affixed to it a plate or sticker evidencing its being licensed under this section.

Subd. 7. Transferability. The license required by this section is a personal privilege and does not constitute property. It is not transferable except as provided in this section.

Subd. 8. Hours. There are no restrictions on the hours of operation of amusement centers.

Subd. 9. Restrictions on conditional use. The restrictions contained in this section may be amended and additional conditions or restrictions may be imposed as a part of a conditional use permit issued pursuant to the zoning code.

Subd. 10. Exits; entrances. The premises in which an amusement center is located must have adequate entrances and exits at the front and rear of the premises but may have no entrances to or exits from adjoining buildings, uses or premises.

Subd. 11. Smoking. Smoking of tobacco or any other product in an amusement center is prohibited. The licensee is responsible to insure that this restriction is conformed to. Tobacco products may not be sold in an amusement center.

Subd. 12. Lighting. The interior of an amusement center must be so illuminated as to insure proper and complete observation of patrons at all times. The building inspector must recommend standards for lighting levels to carry out the intent of this subdivision.

Subd. 13. Food and beverage sales. Food and beverages may be sold in an amusement center subject to the provisions of section 610. (Amended, Ord. No. 96-8, Sec. 1)

1180.13. Penalties. A violation of this section is a misdemeanor. The licensee under this section, whether or not in direct control of an amusement center or the premises on which the machines are located, may be charged under this section for a violation thereof by virtue of the responsibility under this section and by virtue of the indirect control of the machines and the premises.

Section 1185 - Lawful gambling

1185.01. Lawful gambling. Subdivision 1. General rule. Pursuant to the provisions of Minnesota Statutes, section 340A.410, subdivision 5, as amended, lawful gambling may be conducted on premises licensed for the sale of intoxicating liquor by organizations licensed by the charitable gambling control board (board) under Minnesota Statutes, Chapter 349, as amended, when a premises permit or bingo hall license, if required by law, therefor has been issued by the board. Non-profit organizations licensed by the board may conduct lawful gambling on the licensed premises or adjoining rooms of on sale liquor establishments provided the gambling is in compliance with the law and the requirements of this section are complied with. (Amended, Ord. No. 2010-01)

Subd. 2. Expanded premises for lawful gambling. Notwithstanding anything to the contrary in section 1185, lawful gambling may be conducted on any premises for which the organization obtains a premises permit from the board. Lawful gambling conducted on any premises other than a licensed on sale liquor establishment is subject to all the terms and conditions of section 1185, except that (a) references to on sale establishments are deemed to include any other premises for which a lawful gambling premises permit has been issued, and (b) lawful gambling may be conducted on such premises only between the hours of 11:00 a.m. and 12:00 midnight on any day. (Added, Ord. No. 2000-02, Sec. 1; Amended, Ord. No. 2001-06, Sec. 1)

1185.03. City review. Subdivision 1. City investigation. Upon receipt of an application for an initial premises permit or bingo hall license and payment of the investigation fee required by subsection 1185.17 the city manager will refer the application to the police chief for a Computerized Criminal History (CCH) Investigation as authorized by section 311 of the city code. The police chief must as part of the CCH Investigation, obtain from the board data received by the board in the initial license application and premises permit application of the organization and other information that the board may have in its possession relating to the eligibility and qualifications of the licensed organization to conduct or continue to conduct lawful gambling at the premises specified in the permit application. (Amended, Ord. No. 2007-11, Sec. 6; Ord. No. 2010-01)

Subd. 2. City council action. The city council will review the initial application for a bingo hall license or premises permit. The council may by resolution decline to approve the initial application if in its judgment the conduct of lawful gambling at the premises by the applicant will adversely affect the public health, safety and welfare. The resolution approving an initial application shall be adopted by the council within 90 days of the date of application for the new permit and approval of the state license by the board. The council may by resolution suspend or revoke a previously granted premises or license permit where the board has suspended or revoked the state license, or where the permittee/licensee has engaged in conduct constituting grounds for the revocation or suspension of an intoxicating liquor license as specified in subsection 1005.21 of this code or both (i) and (ii) as the case may be. (Amended, Ord. No. 2010-01)

Subd. 3. Prior board approval. The city will not consider an application for an initial lawful gambling premises permit or bingo hall license unless (i) the application for the permit or license has been approved by the board or (ii) the board has indicated in writing to the city clerk that board approval is granted pending only the approval of the city council. (Amended, Ord. No. 2010-01)

1185.05. Eligible organizations. a) The city will consider for approval only premises permits or bingo hall licenses by organizations that are licensed by the board and meet all the conditions in subsection 1185.05, paragraph b). When an application is submitted to the city the city will presume that the applicant is eligible for the permit or license under state law but will make no independent investigation of that fact. (Amended,

Ord. No. 2005-18, Sec. 1)

- b) An organization shall not be eligible to conduct lawful gambling in the city unless it meets the requirements of Minnesota Statutes, section 349.16, as amended, and at least one of the following conditions are met for an initial application and a perpetual license: (Amended, Ord. No. 2010-01)
- 1) The organization has at least 15 members that are residents of the city; or
 - 2) The physical site for the organization's headquarters or the registered business office of the organization is located within the city or a municipality contiguous to the city and has been located within the city or a municipality contiguous to the city for at least two years immediately preceding application for a license; or
 - 3) The organization owns real property within the city and the lawful gambling is conducted on the property owned by the organization within the city; or
 - 4) The physical site where the organization regularly holds its meetings and conducts its activities, other than lawful gambling and fund raising, is within the city and has been located within the city for at least two years immediately preceding application for a license; or
 - 5) The organization is a fire relief organization that provides fire protection services to the city. (Added, Ord. No. 2005-18, Sec. 1)

1185.07. Limit of licenses. On sale establishments authorized to allow gambling are limited to one yearly lessee at premises licensed for on sale liquor sales in the city. The city council may by resolution authorize more than one organization to conduct lawful gambling activities at various locations for a limited period in connection with an annual civic celebration.

1185.09. Hours. Lawful gambling may be conducted only during the permitted hours of operation of the licensed on sale establishment.

1185.11. Leases; filing. A copy of the lease agreement between a non-profit organization and an on sale licensee must be filed with the city clerk within one week after execution of the lease. The lease must provide that the lessee may operate only after issuance of a license and premises permit from the board and be subject to the terms of this section.

1185.13. Distribution of proceeds. a) Each organization licensed to conduct gambling within the city shall contribute to a fund administered and regulated by the city, without cost to such fund, for distribution by the city for purposes authorized under Minnesota Statutes, section 349.213, subdivision 1, an amount equal to 10% of the organization's net profits derived from lawful gambling at premises within the city. For purposes of this subsection the term "net profits" means profits less amounts expended for allowable expenses; the terms "profits" and "allowable expenses" have the meanings given them by Minnesota Statutes, chapter 349 and rules and regulations promulgated thereunder. Payments to the fund shall be made annually on or before March 1 for the prior calendar year, and shall be submitted together with verifiable supporting documentation. (Amended, Ord. No. 2005-18, Sec. 2; Ord. 2006-10, Sec. 1)

- b) Each organization conducting lawful gambling within the city must expend 15% of its lawful purpose expenditures on lawful purposes conducted or located within the trade area of the city. For the purposes of this subsection, the term “trade area” means the area within the boundaries of the city and within the boundaries of the cities of New Hope, Robbinsdale, Golden Valley, Brooklyn Center, and Brooklyn Park; provided that a contribution to Independent School District No. 281 is deemed to have been made in the trade area of the city. This subdivision applied only to lawful purpose expenditures of gross profits derived from lawful gambling conducted at premises within the city. On or before each March 1, each organization must file with the city (a) a report listing all lawful purpose expenditures in the prior calendar year, the name of the entity to whom each check was written, and the city location of the recipient; and (b) a report prepared by an independent certified public accountant documenting compliance with this subdivision. (Added, Ord. No. 2005-18, Sec. 2; Ord. 2006-10, Sec. 2)
- c) Each organization conducting lawful gambling within the City may apply the 10% net profits contribution requirement of subsection a) of this section, against the 15% lawful purpose expenditures requirement of subsection b) of this section. Such election shall be clearly disclosed in the report required by subsection b) of this section. (Added, Ord. 2006-10, Sec. 3)

1185.15. Filing. Organizations conducting lawful gambling in the city must file with the city clerk copies of records and reports filed with the board pursuant to Minnesota Statutes, chapter 349 and the rules and regulations promulgated thereunder, as each may be amended. (Amended, Ord. No. 2010-01)

1185.17. Investigation fees. An organization applying for an initial premises permit or bingo hall license to conduct lawful gambling in the city must pay the investigation fee set by appendix IV. If the fee is not paid the council will not approve the permit or license under subsection 1185.03. (Amended, Ord. No. 2010-01)

Section 1190 - Adult Establishments
(Added, Ord. No. 1996-2)

1190.01 Findings and Purpose. Studies conducted by the Minnesota Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These 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 geographic, licensing, 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.

1190.03 Definitions. For purposes of this section, the following terms have the meanings given them.

Subd. 1. "Adult Establishment" means:

- a) any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business, except any business licensed under chapter XII of this code;
- b) any business that (i) derives 25% or more of its gross receipts during any calendar month from, or (ii) devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
- c) any business that engages in any adult use as defined in subdivision 2 of this section.

Subd. 2. Adult Use. An adult use is any of the following activities or businesses:

- a) “Adult Body Painting Studio” means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
- b) “Adult Bookstore” means 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: (1) the business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; (2) 25% or more of the business’ gross receipts during any calendar month are derived from 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) 25% or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to items, merchandise, or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- c) “Adult Cabaret” means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
- d) “Adult Companionship Establishment” means a business or establishment that excludes minors by reason of age, and that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- e) “Adult Conversation/Rap Parlor” means a business or establishment that excludes minors by reason of age, and that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- f) “Adult Health/Sport Club” means a health/sport club that excludes minors by reason of age, and that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- g) “Adult Hotel or Motel” means a hotel or motel that excludes minors by reason of age, and that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

- h) “Adult Massage Parlor/Health Club” means a massage parlor or health club that excludes minors by reason of age, and that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- (i) “Adult Mini-Motion Picture Theater” means a business or establishment with a capacity of less than 50 persons that presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- j) “Adult Modeling Studio” means a business or establishment that provides figure models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
- k) “Adult Motion Picture Arcade” means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
- l) “Adult Motion Picture Theater” means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice excludes minors by reason of age or that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
- m) “Adult Novelty Business” means an establishment or business that (i) derives 25% or more of its gross receipts during any calendar month from, or (ii) devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, items or merchandise depicting Specified Sexual Activities or Specified Anatomical Areas or devices that either stimulate human genitals or are designed for sexual stimulation.
- n) “Adult Sauna” means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- (o) “Adult Steam Room/Bathhouse Facility” means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

Subd. 3. Nude or Specified Anatomical Areas.

- a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
- b) Human male genitals in a discernably turgid state, even if completely and opaquely covered.

Subd. 4. Specified Sexual Activities.

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

1190.05. Location. An Adult Establishment may not be located within 250 feet of: any residentially-zoned property boundary; or any church site, school site, day care facility, park, or business licensed under chapter XII of this code. An Adult Establishment may not be located within 500 feet of another Adult Establishment. For purposes of this section, this distance is a horizontal measurement from the main public entrance of the Adult Establishment to: the nearest point of a residentially-zoned property boundary; the property line of a church site, school site, day care facility, park, or business licensed under chapter XII of this code; and the main public entrance of another Adult Establishment.

1190.07 Hours of Operation. An Adult Establishment may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

1190.09. Additional Conditions for Adult Cabarets. The following additional conditions apply to Adult Cabarets:

- a) An owner, operator, or manager of an adult cabaret may not allow any dancer or other live entertainer to display specified anatomical areas or to display or perform Specified Sexual Activities on the premises of the Adult Cabaret;
- b) A dancer, live entertainer, performer, patron, or any other person may not display Specified Anatomical Areas in an Adult Cabaret;
- c) The owner, operator, or manager of an adult cabaret must provide the following information to the city concerning any person who dances or performs live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth, and any aliases;
- d) A dancer, live entertainer, or performer may not be under 18 years old;
- e) Dancing or live entertainment must occur on a platform intended for that purpose and that is raised at least two feet from the level of the floor;
- f) A dancer or performer may not perform a dance or live entertainment closer than ten feet from any patron;
- g) A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;
- h) A patron may not pay or give any gratuity to any dancer or performer; and
- i) A dancer or performer may not solicit or accept any pay or gratuity from any patron.

1190.11 License Required. Subdivision 1. A person may not 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, the procedures set forth in this subsection establish the exclusive method for obtaining an adult establishment license.

Subd. 2. Application: The application for an Adult Establishment license must be submitted on a form provided by the city and must include:

- a) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation;

- b) The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's;
- 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 another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent 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 another community;
- e) The activities and types of business to be conducted;
- f) The hours of operation;
- g) The provisions made to restrict access by minors; and
- h) A building plan of the premises detailing all internal operations and activities.

Subd. 3. License Fee:

- a) The annual license fee is set by appendix IV.
- b) An application for a license must be submitted to the city clerk and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.
- c) Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.
- d) No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the city council within 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:
 - i) Destruction or damage of the licensed premises by fire or other catastrophe;

- ii) The licensee's illness, if such illness renders the licensee unable to continue operating the licensed Adult Establishment;
 - iii) The licensee's death; or
 - iv) A change in the legal status making it unlawful for the licensed business to continue.
- e) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the city council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the police chief or the city clerk in writing and they will report it to the city council. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

IV. Subd. 4. Fees. The investigative fee for an Adult Establishment license is established by appendix

Subd. 5. Granting of license.

- a) The chief of police will conduct and complete a CCH Investigation as authorized by section 311 of the city code within 30 days after the city clerk receives a complete application and all license and investigative fees. (Amended, Ord. No. 2007-11, Sec. 7)
- b) If the application is for a renewal, the applicant will be allowed to continue business until the city council has determined whether to renew or refuse to renew a license.
- c) If, after the CCH Investigation, it appears that the applicant and the place proposed for the business are eligible for a license, then the license will be issued by the city council within 30 days after the CCH Investigation is completed. If the city council fails to act within 30 days after the CCH Investigation is completed, the application will be deemed approved. (Amended, Ord. No. 2007-11, Sec. 7)
- d) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult Establishments existing at the time of the adoption of this subsection must obtain an annual license.

Subd. 6. Persons Ineligible for License. A license will not be granted to or held by a person who:

- a) Is under 21 years of age;
- b) Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
- 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 twelve (12) months; or
- f) Who has not paid the license and investigative fees required by this subsection.

Subd. 7. Places Ineligible for License.

- a) A license will not be granted for any Adult Establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this subsection, or where a license hereunder has been revoked for cause, until one (1) year has elapsed after the conviction or revocation.
- b) A license will not be granted for any Adult Establishment that is not in full compliance with the city code and all provisions of state and federal law.
- c) A license will not be granted for any premises that are licensed under chapter XII of this code.

Subd. 8. Conditions of License.

- a) A license is subject to the provisions of this subsection, and of any applicable sections of the city code and all provisions of state and federal law.
- b) Licensed premises must have the license posted in a conspicuous place at all times.
- c) A minor may not be permitted on the licensed premises.

- d) Any designated inspection officer of the city has the right to enter, inspect, and search the premises of a licensee during business hours.
- e) The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.
- f) Items or Materials depicting Specified Sexual Activities or Specified Anatomical Areas may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.
- g) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request.
- h) The licensee must cover or otherwise arrange all windows, doors, and apertures to prevent any person outside the licensed premises from viewing any items or merchandise inside the premises depicting Specified Sexual Activities or Specified Anatomical Areas.

Subd. 9 Penalty.

- a) A violation of this section is a basis for the suspension or revocation of a license granted hereunder. In the event that the city council proposes to revoke or suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice.
- b) The city council must 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. the council must notify the licensee of its decision within that period.

Subd. 10. Right of Appeal.

- a) If the council determines to suspend, or revoke a license, the suspension or revocation is not 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 is 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 does not 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 may not commence doing business unless the action is concluded in its favor.

Section 1195: Therapeutic Massage
(Added, Ord. No. 96-10, Sec. 1)

1195.01. Findings. It is found and determined that:

- a) persons who have recognized and standardized training in therapeutic massage, health and hygiene provide a legitimate and necessary service to the general public;
- b) health and sanitation regulations governing therapeutic massage enterprises and massage therapists will minimize the risk of the spread of communicable diseases and promote health and sanitation;
- c) license qualifications for therapeutic massage enterprises and massage therapists will minimize the risk that such businesses and persons may facilitate prostitution and other criminal activity in the city; and
- d) massage services provided by persons without recognized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.

1195.03. Definitions. Subdivision 1. The terms defined in this section have the meanings given them.

Subd. 2. "Clean" means the absence of dirt, grease, rubbish, garbage and other offensive, unsightly or extraneous matter.

Subd. 3. "In good repair" means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects.

Subd. 4. "Massage" means the rubbing, stroking, kneading, tapping or rolling of the body of another person with the hands for the purpose of physical fitness, health-care referral, relaxation and for no other purpose.

Subd. 5. "Operate" means to own, manage or conduct, or to have control, charge or custody over.

Subd. 6. "Therapeutic massage enterprise" means a place of business providing massage services to the public for consideration: the term does not include a hospital, sanitarium, rest home, nursing home, boarding home or other institution for the hospitalization or care of other human beings duly licensed under the provisions of Minnesota Statutes, Sections 144.50 through 144.69.

Subd. 7. "Therapeutic massage therapist" means a person who practices or administers massage to the public for consideration.

Subd. 8. "In the city" means physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from in the city.

1195.05. License required. Subdivision 1. Therapeutic massage enterprise. It is unlawful to operate, offer, engage in or carry on massage services in the city without a therapeutic massage enterprise license.

Subd. 2. Therapeutic massage therapist license. It is unlawful to practice, administer or provide massage services in the city without a therapeutic massage therapist license.

1195.07. Exemptions. A therapeutic massage enterprise license or massage therapist license is not required for the following persons and places:

- a) persons licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, provided that the massage is administered in the regular course of the medical treatment not provided as part of a separate and distinct massage business;
- b) persons licensed by the state as beauty culturists or barbers, provided the persons do not hold themselves out as giving massage treatments and provided that massage by beauty culturists is limited to the head, hand, neck and feet and the massage by barbers is limited to the head and neck;
- c) persons working solely under the direction and control of a person duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry;
- d) places licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for hospitalization or medical care; and
- e) athletic coaches, directors and trainers employed by public or private schools.

1195.09. General rule. The owner or operator of a licensed therapeutic massage enterprise may employ only licensed therapeutic massage therapists to provide massage services. The owner or operator of a licensed therapeutic massage enterprise need not be licensed as a therapeutic massage therapist unless that owner or operator personally provides massage services.

1195.11. License application. Subdivision 1. Therapeutic massage enterprise. The application for a therapeutic massage enterprise license must contain the following information:

- 1) For all applicants:
 - i) whether the applicant is an individual, corporation, partnership or other form of organization;
 - ii) the legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access and parking facilities;
 - iii) the floor number, street number and rooms where the massage services are to be conducted;
 - iv) whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not, the years and amounts that are unpaid;

- v) if the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by preliminary plans showing the design of the proposed premises; if the plans for design are on file with the building inspector, no plans need be submitted;
 - vi) the name and street address of the business if it is to be conducted under a designation, name or style other than the name of the applicant, and a certified copy of the certificate required by Minnesota Statutes, section 333.02;
 - vii) other information that the city council may require.
- 2) For applicants who are individuals:
- i) the name and date of birth of the applicant and applicant's residence address;
 - ii) if the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning the dates and places where used;
 - iii) residence addresses of the applicant during five years preceding the date of application;
 - iv) the type, name and location of every business or occupation the applicant has been engaged in during the preceding five years;
 - v) names and addresses of the applicant's employers for the preceding five years;
 - vi) if the applicant has ever been convicted of a felony, crime or violation of an ordinance other than a minor traffic offense; if so, the applicant must furnish information as to the time, place and offense involved in the convictions;
 - vii) if the applicant has ever been engaged in the operation of massage services; if so, the applicant must furnish information as to the name, place and length of time of the involvement in such activity.
- 3) For applicants that are partnerships:
- i) the names and addresses of general and limited partners and the information concerning each general partner described in paragraph 2);
 - ii) the managing partners must be designated, and the interest of each general and limited partner in the business must be disclosed;
 - iii) a true copy of the partnership agreement must be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minnesota Statutes, section 333.02, a certified copy of that certificate must be submitted.

The license if issued will be in the name of the partnership.

- 4) For applicants that are corporations:
 - i) the name of the organization, and if incorporated, the state of incorporation;
 - ii) a true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minnesota Statutes, section 303.02;
 - iii) the name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and the information about those persons described in paragraph 2);
 - iv) a list of the persons who own or have a controlling interest in the corporation or organization or who are officers of the corporation or organization, together with their addresses and the information regarding such persons described in paragraph 2).

Subd. 2. Therapeutic massage therapist. An application for a therapeutic massage therapist license must contain the following information:

- 1) the applicant's name and address;
- 2) the applicant's current employer;
- 3) the applicant's employers for the previous five years, including employer's name, address and dates of employment;
- 4) the applicant's residence address for the previous five years;
- 5) the applicant's social security number, date of birth, home telephone number, weight, height, color of eyes and color of hair;
- 6) if the applicant has ever been convicted of a felony, crime or violation of an ordinance other than a minor traffic offense and, if so, the time, place and offense involved in the convictions;
- 7) if the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used;
- 8) evidence that the applicant:
 - a) has current insurance coverage over \$1,000,000 for professional liability in the practice of massage;
 - b) is affiliated with, employed by or owns a therapeutic massage enterprise licensed by the city;

- c) has completed 400 hours of certified therapeutic massage training from a recognized school that has been approved by the city manager; or
 - d) has one year of experience practicing massage therapy as established by an affidavit and can document within two years of obtaining the license that the person has completed 400 hours of certified therapeutic massage training from a recognized school; if such documentation cannot be established at the time of license renewal, the license will not be renewed and the person who received the license based upon experience may not receive a license in the future unless the person has the requisite certified hours;
- 9) other information that the city council may require;
- 10) the minimum requirement of massage training specified in clause 8, paragraphs c) and d) does not apply to a massage therapist i) employed by an establishment licensed for massage on the effective date of Ordinance No. 96-10 and ii) continuously employed since that date by the licensed establishment. (Added, Ord. No. 97-6, Sec. 1)

1195.13. Application and investigation fees. The fees for a massage enterprise and therapist licenses are set forth in Appendix IV. An investigation fee will be charged for therapeutic massage enterprise licenses. An application for either license must be accompanied by payment in full of the required license and investigation fees, if applicable.

1195.15. Application verification and consideration. Subdivision 1. Therapeutic massage enterprise license. The city manager must verify the information supplied on the license application and investigate the background, including the criminal background, of the applicant to assure compliance with this section, by referring the application to the police chief for a CCH Investigation as authorized by section 311 of the city code. Within 90 days of receipt of a complete application and fee for a therapeutic massage enterprise license, the city manager must make a written recommendation to the city council as to issuance or nonissuance of the license. The city council may order additional investigation if it deems it necessary, but must grant or deny the application within 120 days of receipt by the city manager of the complete application and required fees. (Amended, Ord. No. 2007-11, Sec. 8)

Subd. 2. Therapeutic massage therapist license. Within 90 days of receipt of a complete application and fee for a therapeutic massage therapist license, the city manager must grant or deny the application. Notice will be sent to the applicant upon a denial informing the applicant of the right to appeal to the city council within 20 days. If an appeal is properly made, the matter will be placed on the next available city council agenda.

1195.17. Persons ineligible for license. Subdivision 1. Therapeutic massage enterprise license. A therapeutic massage enterprise license may not be issued to an individual who:

- a) is a minor at the time the application is filed;
- b) has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minnesota Statutes, section 364.03, subdivision 3;
- c) is not of good moral character or repute;
- d) is not the real party in interest of the enterprise;

e) has misrepresented or falsified information on the license application.

Subd. 2. Therapeutic massage therapist license. A therapeutic massage therapist license may not be issued to a person who could not qualify for a therapeutic massage enterprise license or who is not (i) affiliated with, (ii) employed by or (iii) does not hold, a therapeutic massage enterprise license.

1195.19. Locations ineligible for therapeutic massage enterprise license. Subdivision 1. A therapeutic massage enterprise may not be licensed if the enterprise is located on property on which taxes, assessments or other financial claims to the state, county, school district or city are due and delinquent. In the event a suit has been commenced under Minnesota Statutes, sections 278.01-278.13, questioning the amount or validity of taxes, the city council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

Subd. 2. Zoning compliance. A therapeutic massage enterprise may not be licensed if the location of such enterprise is not in conformance with section 515 (Appendix I-Zoning) of this Code.

1195.21. General license restrictions. Subdivision 1. Posting. A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. A person licensed as a therapeutic massage therapist must have in possession a copy of the license when therapeutic massage services are being rendered.

Subd. 2. Area. A therapeutic massage enterprise license is effective only for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered or extended, the licensee must inform the city manager. A licensed therapeutic massage therapist may perform on-site massage at a business, public gathering, private home or other site not on the therapeutic massage enterprise premises.

Subd. 3. Transfer. The license issued is for the person or the premises named on the approved license application. Transfer of a license from place to place or from person to person is not permitted.

Subd. 4. Coverings. The therapist must require that the person who is receiving the massage will at all times have that person's breasts, buttocks, anus and genitals covered with non-transparent material or clothing. A therapist performing massage must have the therapist's breasts, buttocks, anus and genitals covered with a non-transparent material or clothing.

Subd. 5. Prohibited massage. A therapist may not intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva or vaginal area of a person.

1195.23. Restrictions regarding sanitation and health. Subdivision 1. A therapeutic massage enterprise must be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room must be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room must be kept clean and in good repair and be fully and adequately illuminated.

Subd. 2. A therapeutic massage enterprise must provide single-service disposal paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage. If the table, chair or furniture on which a patron receives the massage is made of material impervious to moisture, such table, chair or furniture must be sanitized after each massage.

Subd. 3. The therapeutic massage therapist must wash the therapist's hands and arms with water and soap, anti-bacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.

Subd. 4. Massage tables, chairs or furniture on which the patron receives the massage must have surfaces that can be readily disinfected after each massage.

Subd. 5. Rooms in a therapeutic massage enterprise must be fully and adequately illuminated.

Subd. 6. A therapeutic massage enterprise must have a janitor's closet that provides for the storage of cleaning supplies.

Subd. 7. Therapeutic massage enterprises must provide adequate refuse receptacles that must be emptied as required by this code.

Subd. 8. Therapeutic massage enterprises must be maintained in good repair and sanitary condition.

Subd. 9. Therapeutic massage enterprises must comply with the requirements of the Minnesota Indoor Clean Air Act.

Subd. 10. A therapeutic massage enterprise must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises.

Subd. 11. Massage therapists must wear clean clothing when performing massage services.

1195.25. License term; fees; renewals. Licenses expire annually on December 31. The license fee will be prorated in 30-day increments for licenses issued after June 30. The city manager must prepare an application form for the renewal of a license requiring information that the manager determines necessary for consideration of the renewal. The renewal application must be made no later than November 30. License fees are set by Appendix IV.

1195.27. Suspension; revocation. A license granted under this section may be suspended or revoked by the city council for the reasons and under the procedures specified in Chapter X of the code.

1195.29. Temporary therapist license. Subdivision 1. The city manager may issue a temporary therapeutic massage therapist license as provided in this subsection.

Subd. 2. A temporary massage therapist license may be issued to a person who

- a) is qualified to hold a massage therapist license under this section;
- b) has completed the required application and paid the license fee at least seven days prior to the effective date of the license.

Subd. 3. A temporary license is effective for four consecutive days. A person may not be issued more than three temporary licenses in any period of 360 consecutive days.

Subd. 4. All other provisions of this section apply to temporary licenses.

1195.31. Hours of operation. A licensed therapeutic massage enterprise may not operate for business between the hours of 9:00 p.m. and 7:00 a.m.