

CHAPTER XI

BUSINESS AND TRADE REGULATIONS

SECTION 1100 – PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

1100.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. “Non-commercial door-to-door advocate” means a person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this section, the term door-to-door advocate shall fall under the term “solicitor” and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

Subd. 3. “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 movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personnel property that the person is carrying or otherwise transporting. For purpose of this section, the term “peddler” shall have the same common meaning as the term “hawker.”

Subd. 4. “Person” means any natural individual, group, organization, corporation, partnership, or similar association.

Subd. 5. “Professional fundraiser” means any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, politician, social, or other charitable organization.

Subd. 6. “Regular business day” means any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

Subd. 7. “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 movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. For purposes of this section, the term “solicitor” shall have the same meaning as the term “canvasser.”

Subd. 8. "Transient merchant" means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than 14 consecutive days.

Subd. 9. For the purpose of this section, the terms "peddler," "solicitor," and "transient merchant" shall not apply to:

- a) Non-commercial door-to-door advocates. Nothing within this section shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in door-to-door advocacy shall not be required to register as a solicitor.
- b) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- c) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.
- d) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- e) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- f) Any person conducting the type of sale commonly known as a garage sale, rummage sale, or estate sale.
- g) Any person participating in an organized multi-person bazaar or flea market.
- h) Any person conducting an auction as a properly licensed auctioneer.
- i) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

1100.03. Licensing; Exemptions. Subdivision 1. County license required. No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minnesota

Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity.

Subd. 2. City license required. Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant this section.

Subd. 3. Application. An application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the city council and available from the office of the city clerk-treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

- a) The applicant's full legal name.
- b) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- c) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
- d) Full address of the applicant's permanent residence.
- e) Telephone number of the applicant's permanent residence.
- f) Full legal name of any and all business operations owned, managed, or operated by the applicant, or for which the applicant is an employee or an agent.
- g) Full address of the applicant's regular place of business, if any exists.
- h) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
- i) The type of business for which the applicant is applying for a license.
- j) Whether the applicant is applying for an annual or daily license.
- k) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of 14 consecutive days.
- l) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.

- m) A statement as to whether or not the applicant has been convicted with the last five years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
- n) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
- o) Proof of any required county license.
- p) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.
- q) A general description of the items to be sold or services to be provided.
- r) Any and all additional information as may be deemed necessary by the city.
- s) The applicant's driver's license number or other acceptable form of identification.
- t) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.

Subd. 4. Fee. All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.

Subd. 5. Procedure. Upon receipt of the application and payment of the license fee, the clerk-treasurer will, within two regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the clerk-treasurer determines that the application is incomplete, he or she must inform the applicant of the required necessary information that is missing. If the application is complete, the clerk-treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Once the investigation is complete, the license application shall be brought to the next regularly scheduled city council meeting for approval. The city council must approve the license unless grounds exist for denying the license application, in which case it must deny the request for a city peddler or transient merchant license. The applicant shall be notified of the decision in writing. The decision of the city council can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

Subd. 6. Duration. An annual license granted under this section shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this section shall be valid only during the time period indicated on the license.

Subd. 7. Professional fundraisers not exempt. A professional fundraiser working on behalf of an otherwise exempt group or person shall not be exempt from the licensing requirements of this section.

Subd. 8. License exemptions.

- a) 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.
- b) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

1100.05. License Ineligibility. Subdivision 1. The following shall be grounds for denying a peddler or transient merchant license:

- a) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.
- b) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
- c) The failure of an applicant to sign the license application.
- d) The failure of an applicant to pay the required fee at the time of application.
- e) A conviction with the past 5 years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the persons' ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of action or threatened physical harm against another person.
- f) The revocation with the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- g) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.

1100.07. License Suspension and Revocation. Subdivision 1. Generally. Any license issued under this section may be suspended or revoked at the discretion of the city council for violation of any of the following:

- a) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
- b) Fraud, misrepresentation or false statements made during the course of the licensed activity.
- c) Subsequent conviction of any offense to which the granting of the license could have been denied under this section.
- d) Engaging in any prohibited activity as provided under this section.
- e) Violation of any other provision of this section.

Subd. 2. Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

Subd. 3. Notice. Prior to revoking or suspending any license issued under this section, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

Subd. 4. Public Hearing. Upon receiving the notice, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the clerk-treasurer within 10 days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request for the public hearing. Within three business days of the hearing, the city council shall notify the licensee of its decision.

Subd. 5. Emergency. If, in the discretion of the city council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ordinance, the city council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in this section.

Subd. 6. Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

1100.09. License Transferability. Subdivision 1. No license issued under this section shall be transferred to any person other than the person to whom the license was issued.

1100.11. Registration. Subdivision 1. All solicitors and any person exempt from the licensing requirements of this section shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the clerk-treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

Subd. 2. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

1100.13. Prohibited Activities. Subdivision 1. No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manners:

- a) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- b) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- c) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- d) Conducting business before 8 a.m. or after 8 p.m.
- e) Failing to provide proof of license, or registration, and identification when requested.
- f) Using the license or registration of another person.
- g) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
- h) Remaining on the property of another when requested to leave.
- i) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

1100.15. Exclusion by Placard. Subdivision 1. Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door

advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

- a) At least four inches long.
- b) At least four inches wide.
- c) With print of at least 48 point in size.
- d) Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.

Subd. 2. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

1100.17. Penalty. Subdivision 1. Any individual found in violation of any provision of this section, shall be a guilty of a misdemeanor.

1100.19. Severability. Subdivision 1. If any provision of this section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 1110 - GARBAGE AND REFUSE COLLECTORS

1110.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. "Garbage" means all putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes, as well as mixed municipal solid waste as defined by Minnesota Statutes Section 115A.03, subdivision 21.

Subd. 3. "Other refuse" means ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrescible wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

1110.03. General Rule. Subdivision 1. Required collection. All persons are required to dispose of all garbage or other refuse by means of a city licensed residential mixed solid waste collection contractor.

Subd. 2. Exceptions. Nothing in this subsection prevents persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed: i) garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top, ii) other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo; and iii) garbage and other refuse is dumped or unloaded only at the designated sanitary landfill.

1110.05. Licensee Requirements. Subdivision 1. Collector licenses will be granted only upon the condition that the licensee have water-tight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or unloaded only at the designated sanitary landfill.

Subd. 2. Before a collector's license will be issued, the applicant must file with the city clerk-treasurer evidence that applicant has provided public liability insurance on all vehicles used by the applicant in the licensed business. The minimum limits of coverage of such insurance shall be:

- a) Each person injured, at least \$1,000,000.00;
- b) Each accident, at least \$1,000,000.00;
- c) Property damage, at least \$300,000.00; and
- d) Workers' compensation with statutory limits on all employees.

Any insurance policy required under this section must remain in full force and effect at all times that the collector is licensed by the city. All policies must contain a provision requiring the city to be

notified at least 30 days prior to the expiration or cancellation of any insurance policy. Failure to carry the required insurance shall be grounds for termination of the collector license.

Subd. 3. The city council, in the interest of maintaining healthful and sanitary conditions in the city, may specify and assign certain areas to all licensees, and to limit the number of licenses issued. The term of a collector license shall be up to five years from the date of issuance, unless terminated earlier.

Subd. 4. The applicant must file with the clerk-treasurer a schedule of proposed rates to be charged during the licensed period for which the application is made. The rates must be approved by the council before granting a license. The city shall approve annually the rates for refuse collection proposed by the collector. A licensee may petition the council for review of such rates during the licensed period, and the council may likewise consider such petition and make new rates effective at any time. Any requested increase in rates shall be submitted to the council in writing, at least 90 days prior to the proposed implementation date for any rate increase. A request for rate increase by the collector shall include all information necessary to support the proposed adjustment, as well as any other information requested by the city including comparative rates in surrounding communities. Prior to voting on any proposed rate increase, the city council may hold a public hearing, preceded by 10 days' published notice. A licensee may not charge rates in excess of the rates approved by the council. The pricing system to be used by a licensed collector shall be based upon the volume of the garbage or other refuse collected.

1110.07. License Fee. The annual fee for a collector license shall be set by council resolution and shall not be prorated. Subsequent annual payments of the license fee shall be paid by the first working day of each year. Failure to pay the license fee shall be grounds for termination of the license. In determining the amount of the license fee, the council shall include all costs incurred by the city to administer the license and to enforce city code provisions relating to refuse collection.

1110.09. Customer Complaints. The licensee shall meet with city staff at least quarterly to address any customer complaints regarding the licensee's performance of refuse collection, hauling or disposing.

1110.11. Assignability of License. A collector license issued by the city may not be assigned or transferred in whole or in part by the licensee unless the city council gives its approval prior to any proposed assignment or transfer. Any attempt to assign or transfer the license in whole or in part without prior approval of the council shall be grounds for termination of the license.

1110.13. Revocation. Subdivision 1. A collector license may be terminated by the city upon occurrence of any of the following:

- a) The licensee fails to comply with the provisions of this section, or is in violation of city or county ordinances, state or federal laws or regulations;
- b) The city determines that the licensee's performance of refuse collection, hauling or disposal is unsatisfactory; or

- c) Any proposed increase in rates for collection is determined unsatisfactory by the city.

SECTION 1115 – JUNK DEALERS

1115.01. Junk Dealers. Subdivision 1. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. “Junk” means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags and wood.

Subd. 2. License required. It is unlawful to deal in junk without having a license therefor from the city.

Subd. 3. Restriction. A license will not be granted to a person for operation upon premises contrary to any zoning provision of the city code, or other law.

Subd. 4. Rate schedule. The applicant must file with the city clerk-treasurer a schedule of proposed rates to be charged during the licensed period for which the application is made. The rates must be approved by the city council before granting a license. A licensee may petition the council for review of such rates during the licensed period, and the council may likewise consider such petition and make new rates effective at any time. A licensee may not charge rates in excess of the rates approved by the council.

SECTION 1120 - ADULT ESTABLISHMENTS

1120.01. Findings and Purpose. Subdivision 1. 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 and section 412.221 allow the city to adopt regulations to promote the public health, safety and general welfare.
- e) The public health, safety and general welfare will be promoted by the city adopting regulations governing adult establishments.

1120.03. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. "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;
- b) Any business that devotes 25 percent 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 or derives 25 percent or more of its revenues from items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, discussing, or relating to specified sexual activities or specified anatomical areas; or
- c) Any business that engages in any adult use as defined in this section.

Subd. 3. "Adult use" means 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: i) the business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; or ii) 25 percent or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or 25 percent or more of the revenue of the business is 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.
- c) “Adult cabaret” means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: i) the depiction of specified sexual activities or specified anatomical areas; or ii) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
- d) “Adult companionship establishment” 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 devotes 25 percent 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, or derives 25 percent or more of its revenues from items, merchandise, or devices that either simulate specified sexual activities or specified anatomical areas 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. 4. “Nude or specified anatomical areas” means:

- 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 discernibly turgid state, even if completely and opaquely covered.

Subd. 5. "Specified sexual activities" means:

- 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; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zoerastia;
- 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.

1120.05. Location. An adult establishment may only be located within an adult establishment overlay district created by the city's zoning ordinance.

1120.07. Hours of Operation. An adult establishment may not be open to the public between the hours of 5:00 p.m. and 1:00 a.m.

1120.09. Additional Conditions for Adult Cabarets. Subdivision 1. 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 10 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.
- i) A dancer or performer may not solicit or accept any pay or gratuity from any patron.

1120.11. 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 section. Notwithstanding any other provision of this code to the contrary, the procedures set forth in this section establish the exclusive method for obtaining an adult establishment license.

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

- 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. The license fee provisions for adult establishments are as follows:

- a) The annual license fee is set by council resolution.
- b) An application for a license must be submitted to the city clerk-treasurer and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.
- 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 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 Rice county sheriff or the city clerk-treasurer 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.

Subd. 4. The investigative fee for an adult establishment license is established by council resolution.

Subd. 5. The procedures for processing an adult establishment license are as follows:

- a) The Rice county sheriff's department will conduct and complete an investigation within 30 days after the city clerk-treasurer receives a complete application and payment of all license and investigative fees.
- 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 investigation, it appears that the applicant and the place proposed for the business are eligible for a license, then the license will be issued by the city council within 30 days after the investigation is completed. If the city council fails to act within 30 days after the investigation is completed, the application will be deemed approved.
- 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 section must obtain an annual license.

Subd. 6. A license will not be granted to or may not be 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 12 months; or
- f) Who has not paid the license and investigative fees required by this section.

Subd. 7. An adult establishment license will not be granted for:

- a) Any adult establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this article, or where a license hereunder has been revoked for cause, until one year has elapsed after the conviction or revocation; or
- b) Any adult establishment that is not in full compliance with the city code and all provisions of state and federal law.

Subd. 8. A license is subject to the provisions of this section, and of any applicable chapters of the city code and all provisions of state and federal law.

Subd. 9. Licensed premises must have the license posted in a conspicuous place at all times.

Subd. 10. Minors are not permitted on the licensed premises.

Subd. 11. Any designated inspection officer of the city has the right to enter, inspect, and search the premises of a licensee during business hours.

Subd. 12. The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.

Subd. 13. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

Subd. 14. 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.

Subd. 15. Suspensions, revocations, and nonrenewals of adult establishment licenses are governed by the following provisions:

- a) A violation of this article 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. 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.

- b) 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.
- c) 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 those 15 days for the purpose of determining whether the city acted properly, the licensee may continue in business until the conclusion of the action.
- d) 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.