

CHAPTER 6 SUB-ANALYSIS

OTHER BUSINESS REGULATION AND LICENSING

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CHAPTER 6

OTHER BUSINESS REGULATION AND LICENSING

SECTION 6.01. DEFINITIONS As used in this Chapter, the following words and terms shall have the meanings stated:

1. "Applicant" means any person making an application for a license under this Chapter.
2. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
3. "Bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.
4. "Business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.
5. "License" means a document issued by the City to an applicant permitting him to carry on and transact a business.
6. "Licensee" means an applicant who, pursuant to his application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.
7. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.
8. "Sale", "Sell" and "Sold" mean all forms of b and all manner or means of furnishing merchandise to persons.

SEC. 6.02. APPLICATIONS All applications shall be made as follows:

Subd. 1. All applications shall be made at the office of the City Clerk upon forms that have been furnished by the City for such purposes.

Subd. 2. Unless otherwise provided for in this Chapter, all such applications must be subscribed, sworn to, and include such information as the Council shall deem necessary considering the nature of the business for which license application is made.

Subd. 3. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.

Subd. 4. The City Clerk shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Clerk may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

Subd. 5. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

SEC. 6.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE

Subd. 1. Granting. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. Failure to pay any portion of a fee when due shall be cause for revocation. No license fee shall be refundable upon revocation or voluntarily ceasing to carry on the licensed activity. All applications, including proposed license periods, must be consistent with this Chapter.

Subd. 2. Issuing. If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than \$100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the premises therein described.

Subd. 3. Transfer. A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Subdivision.

Subd. 4. Termination. Licenses shall terminate only by expiration or revocation.

Subd. 5. Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. Grounds for revocation may be, but are not limited to, any of the following: (1) that the licensee suffered or permitted illegal acts upon licensed premises; (2) that the licensee had knowledge of such illegal acts but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

Subd. 6. Duplicate License. Duplicates of all original licenses may be issued by the City Clerk, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

SEC. 6.04. FIXING LICENSE FEES Except as otherwise herein provided, all fees for licenses, late fee penalties, and investigation of applicants under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any such subdivision or categorization shall be included in the resolution authorized by this Section.

SEC. 6.05. CARRYING OR POSTING All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device licensing, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

SEC. 6.06. PENALTY FOR PROPERTY OWNER It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this Chapter.

SEC. 6.07. RESPONSIBILITY OF LICENSEE The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.

SEC. 6.08. CONDITIONAL LICENSES Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

SEC. 6.09. RENEWAL OF LICENSES Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license, and shall contain such information as is required by the City.

SEC. 6.10. INSURANCE REQUIREMENTS Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty days' written notice served upon the City Clerk. Cancellation or termination of such coverage shall be grounds for license revocation.

SEC. 6.11. LICENSE DENIAL AND FIXING RATES - HEARING

Subd. 1. Right to Deny. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

Subd. 2. Rates. Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

Subd. 3. Hearing. Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

Source: City Code

Effective Date: 3-1-88

(Sections 6.12 through 6.29, inclusive, reserved for future expansion.)

SEC. 6.30. DANCES

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. "Public dance" means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money, directly or indirectly.

B. "Public dancing place" means any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

Subd. 2. License Required. It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefor from the City.

Subd. 3. License Fee. The license fee shall include the cost of providing attendance of a police officer, or officers.

Subd. 4. Application and License.

A. A verified application for a dance license shall be filed with the City and shall specify the names and addresses of the person, persons, committee or organization that is to hold the dance, time and place thereof, and the area of the dance floor.

B. All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he lives, that he has not been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

C. No license shall be granted by the Council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than a legitimate business purpose which adjoins such dancing place, or which may be reached by stairs, elevators, or passageway leading from such dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washrooms or lighting facilities.

D. Applications may be referred by the Council to the Chief of Police for investigation and report prior to being acted upon by the Council.

E. The Council shall act upon all dance license applications at a regular or special meeting thereof, whether or not it is included in the call or agenda of the meeting.

F. At least one officer of the law shall be designated by the Chief of Police and employed by the City to be present at every public dance during the entire time said dance is being held. For purposes of this Subparagraph the term "officer of the law" means any person who is a full-time or part-time peace officer. In the discretion of the Council or Chief of Police more than one such peace officer may be required.

G. The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefor, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.

H. No license shall be issued to any applicant under the age of eighteen (18) years.

Subd. 5. Dance Regulations.

A. Obscenity and Immorality Prohibited. It is unlawful for any person to dance, or for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene, or indecent manner or for any licensee to suffer or permit any person so to act or speak in any public dancing place.

B. Illumination. Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed or turned low so as to give imperfect illumination is prohibited.

C. Certain Persons Prohibited. No licensee shall permit any unmarried person under the age of sixteen (16) years, unless said unmarried person is accompanied by his parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

D. Hours of Dancing. No public dance shall be held on Sunday between the hours of 1:00 o'clock A.M. and 12:00 o'clock noon. No public dance shall be held on any day between the hours of 1:00 o'clock A.M. and 6:00 o'clock A.M.

SEC. 6.31. SHOWS

Subd. 1. License Required. It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license therefor from the City.

Subd. 2. Exceptions. the following instances: No license shall be required in

A. Performances presented in the local schools and colleges, under the sponsorship of such schools and colleges, and primarily for the students thereof only.

B. Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only.

C. Any performance or event in, or sponsored by, bona fide local church and non-profit organizations, provided that such organization shall be incorporated.

SEC. 6.32. BOWLING ALLEYS

Subd. 1. License Required. It is unlawful for any person to keep or maintain any bowling alley available for public use without first having obtained a license from the City.

Subd. 2. Hours. No bowling alley shall be open during the hours from 2:00 o'clock A.M. to 7:00 o'clock A.M. of any day, or from 2:00 o'clock A.M. to 12:00 o'clock midnight on Sunday.

SEC. 6.33. TOBACCO

Subd. 1. Purpose: Because the City recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco related devices, and such sales, possession and use are violations of State laws; and because studies which the City hereby accepts and adopts have shown that most smokers begin smoking before they have reached the age of eighteen (18) years and that those persons who reach the age of eighteen (18) years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco related devices and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statutes Section 144.391.

Subd. 2. Definitions and Interpretations: Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term "shall" means mandatory and the term "may" mean permissive. The following terms shall have the definitions given to them:

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

B. Tobacco Related Devices. "Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

C. Self-Service Merchandising. "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products or tobacco related devices in any way where any person shall have access to the product without the assistance or intervention of an employee of the premises maintaining the self-service merchandising. Self-service merchandising shall not include vending machines.

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

E. Individually packaged. "Individually packaged" shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this section shall not be considered individually packaged. Cartons shall be defined in this ordinance as packaging containing ten (10) or more packages of cigarettes.

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

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

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

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

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

K. Compliance Checks. "Compliance Checks" shall mean the system the City uses to investigate and insure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this ordinance.

Subd. 3. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the City.

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

B. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council approves the license, the City Clerk/Finance Director shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

C. Term. All licenses issued under this ordinance shall be valid for one (1) calendar year except if issued in mid year the license shall expire as of December 31 of that year.

D. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.

E. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.

F. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

G. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

H. Renewals. The City shall notify the tobacco license applicants of their renewal in December of each year.

Subd. 4. Fees. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be Seventy-Five and No/100ths Dollars (\$75.00) for the year 1998 and One Hundred and No/100ths Dollars (\$100.00) for the year 1999 and for each year thereafter until further action by the City Council.

Subd. 5. Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

A. The applicant is under the age of eighteen (18) years.

B. The applicant has been convicted within the past five (5) years of any violation of a Federal, State or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

C. The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding twelve (12) months of the date of application.

D. The applicant fails to provide any information required on the application or provides false or misleading information.

E. The applicant is prohibited by Federal, State or other local law, ordinance or other regulation from holding such a license.

Subd. 6. Prohibited Sales. It shall be a violation of this ordinance for any person to offer to sell any tobacco, tobacco product or tobacco related device:

A. To any person under the age of eighteen (18) years.

B. By means of any type of vending machine unless the facility cannot be entered by any person under the age of eighteen (18).

C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product, or tobacco related device, except for the sale of cartons of cigarettes.

D. By means of loosies as defined in Subd. 2 of this ordinance.

E. By any other means, or to any other person, prohibited by Federal, State or other local law, ordinance provision or other regulation.

Subd. 7. Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the City Clerk/Finance Director to whatever penalties are appropriate under this Ordinance, State law, or other applicable law or regulation.

Subd. 8. Compliance Check and Inspection. All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging minors to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco related devices. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification for which he or she is asked. The City shall have one complete compliance check per year wherein they shall check all licensed premises in the City and an additional check conducted by the Police Department of the largest sellers of tobacco products in the community. Compliance checks must use minors who are over fifteen (15) years of age of under eighteen (18) years of age.

Subd. 9. Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance:

A. Illegal Possession. It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product or tobacco related device. This

subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the City, or who have only temporary possession during a legal sales transaction.

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

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

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

E. No Smoking on or Near Virginia Regional Medical Center Campus. This ordinance prohibits smoking on sidewalks and publicly-owned outdoor areas within 50 feet of the Virginia Regional Medical Center campus.

1. Public place means any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility.

2. Smoke or smoking means the use or possession of a lighted cigar, cigarette, pipe, tobacco smoking device or any other lighted smoking equipment.

3. No person shall smoke in any public place within 50 feet of the nearest property line of the Virginia Regional Medical Center campus, said 50 measured in a straight line in constant elevation.

4. The prohibition of 3 above does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley.”

Subd. 10. Violations and Penalties. Upon discovery of a suspected violation the violator may be issued a citation by the City police and given notice of his or her right to be heard by the City Council on the accusation. Each violation and every day in which a violation occurs or continues shall constitute a separate offense. Any person found to be in violation of this ordinance shall be administratively fined as follows:

A. Businesses selling tobacco products within the City of Virginia found to be in violation of this ordinance within a twenty-four (24) month period shall be administratively fined as follows: First offense – Seventy-Five and No/100ths Dollars (\$75.00); Second offense – Two Hundred and No/100ths Dollars (\$200.00); Third offense - Two Hundred Fifty and No/100ths Dollars (\$250.00) and revocation of license for one (1) year. If the business gets their license back and receives another violation, the license will be revoked permanently. Failure to pay the fine within thirty (30) days will result in suspension of license, unless they make an appeal to the Public Safety Committee.

(Amended 9/25/02)

B. The clerk who sold the tobacco products in violation of this ordinance shall receive a fine of Fifty and No/100ths Dollars (\$50.00).

(Amended 9/25/02)

C. A minor purchasing tobacco products in violation of this ordinance shall receive a find of One Hundred and No/100ths Dollars (\$100.00).

Before any license is suspended or revoked under this section the licensee shall be given notice of the accused violation and shall be given the right to request a hearing on the matter and to appeal the findings of the hearing on suspension or revocation. In the case of an administrative penalty the hearing for the penalty may be the same as for the suspension or revocation.

Subd. 11. Exceptions and Defenses. Nothing in this ordinance shall prevent the providing of tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

Subd. 12. Severability and Savings Clause. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability, of any other section or provision of this ordinance.

(Adopted 9/24/97)

SEC. 6.34. SOLICITORS

Subd. 1. Purpose. This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Solicitor" means any person making the solicitation, including such common terms as "peddler", "transient merchant" and "canvasser".

B. "Solicitee" means the person solicited.

C. "Goods" means any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom. The term also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by such seller.

D. "Services" means work, labor, or services of any kind.

E. "Established place" means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

F. "Business solicitation" means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity or kinds of goods, services or things of value offered; or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor; or, (3) an attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or, (4) an attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

G. "Contribution solicitation" means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization, or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

Subd. 3. Prohibited Solicitation Practices.

A. It is unlawful for any solicitor to engage in solicitation for any unlawful business or organizational purpose or activity.

B. It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation.

C. It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign at least 3-3/4 inches long and 3-3/4 inches high with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point.

D. It is unlawful for any solicitor to refuse to leave business premises when requested by the owner, lessee, or person in charge thereof.

E. It is unlawful for any person to engage in contribution solicitation without completion of licensing or registration as herein provided.

F. It is unlawful for any person to engage in business solicitation without a license as herein provided.

Subd. 4. Application. Applications for licensing or registration shall contain the name and address of the solicitor, the name and address of the business or organization for which solicitations are sought and such other information as may reasonably be required by the Council as a condition to registration or licensing or to permit investigation into the applicant's background and past solicitation practices. No application for a business solicitor's license shall be complete unless it is accompanied by a valid and current license issued by the County in which such solicitor proposes to engage in solicitation.

Subd. 5. Investigation, Approval or Disapproval.

A. All applications for licensing or registration shall be immediately referred to the Chief of Police, and by him or other person acting in his stead, investigated as to the truth thereof. The Chief of Police shall have five (5) business days within which to investigate and make a recommendation thereon.

B. If he finds no past history of the applicant indicating violations similar to those declared unlawful in this Section he shall recommend issuing a license or approving registration, as the case may be, and the City Clerk shall forthwith advise the applicant. The City Clerk shall issue a license, upon payment of the fee therefor, to the approved applicant for business solicitation, and shall approve the completion of registration by the applicant for a contribution solicitor.

C. If the Chief of Police finds a past history of the applicant indicating violations similar to those declared unlawful in this Section, he shall recommend denial of the license or registration. In all matters of recommended denial the applicant shall be forthwith advised thereof, and the application shall be referred to the Council and considered by it at its next regular or special meeting occurring more than ten (10) days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.

Subd. 6. Duration of Contribution Solicitation Registration. Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

Subd. 7. Exclusions. The Council may, by resolution, exclude certain classes of solicitor events from compliance with licensing or registration provisions of this Section. Provided, however, that such exclusion shall not extend to the prohibited solicitation practices set forth in Subdivision 3, Subparagraphs A through D, inclusive, of this Section.

SEC. 6.35. GARBAGE AND REFUSE HAULERS

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Garbage" means all putrescible wastes, including animal offal and carcasses of dead animals but excluding human excrete, sewage and other water-carried wastes.

B. "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.

Subd. 2. License Required. It is unlawful for any person to haul garbage or other refuse for hire without a license therefor from the City, or to haul garbage or other refuse from his own residence or business property other than as herein excepted.

Subd. 3. Exception. Nothing in this Section shall prevent persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed: (1) that all garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top, (2) that all 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, (3) that all garbage and other refuse shall be dumped or unloaded only at the designated sanitary land-fill.

Subd. 4. Hauler Licensee Requirements.

A. Hauler licenses shall 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 land-fill, and strictly in accordance with regulations relating thereto.

B. Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the City Clerk evidence that he has provided public liability insurance on all vehicles in at least the sum of \$100,000.00 for the injury of one person, \$300,000.00 for the injury of two or more persons in the same accident, and \$10,000.00 for property damages.

C. Licensees shall deliver all refuse to the sanitary land-fill and shall be required to pay non-resident rates for any refuse collected outside the City. Collection outside the City and failure to pay non-resident rates therefor shall be grounds for revocation of the license.

D. The Council, in the interest of maintaining healthful and sanitary conditions in the City, hereby reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.

E. Each applicant shall file with the City Clerk, before a garbage and refuse hauler's license is issued or renewed, a schedule of proposed rates to be charged by him during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Nothing herein shall prevent a licensee from petitioning 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. No licensee shall charge rates in excess of the rates approved by the Council.

SEC. 6.36. KENNELS

Subd. 1. Defined. For the purpose of this Section, the term "kennel" means any place, building, tract of land, abode or vehicle, wherein or whereon more than three dogs, over six months of age, are kept, kept for sale, or boarded.

Subd. 2. License Required. It is unlawful for any person to operate or maintain a kennel without a license therefor from the City.

Subd. 3. License Fee. The annual fee for a kennel License is \$10.00.

Subd. 4. Exception. Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this Section.

Subd. 5. Zoning. No license shall be issued to a person for operation of a kennel in a zoning district where such operation is not permitted or otherwise allowed under the Zoning Chapter of the City Code.

SEC. 6.37. USED METAL DEALER

Subd. 1. Definition. "Used metal dealer" means a person who keeps, conducts, or maintains a building, structure, yard, or place for keeping, storing or piling in commercial quantities whether temporarily, irregularly, or continually, or for buying or selling at retail or wholesale or dealing in any old, used, or second-hand rubber, iron, brass, copper or other metal, including used parts of motor vehicles, whether with a fixed place of business or as an itinerant.

Subd. 2. License Required. It is unlawful for any person to engage in the business of, or operate as, a used metal dealer without a license therefor from the City.

Subd. 3. Bond Required. Each applicant for a license under this Section shall be accompanied by a bond in the penal sum of One Thousand Dollars (\$1,000.00) conditioned on the licensee strictly keeping and of serving all provisions of the City Code and other laws relating to the licensed business.

Subd. 4. License Regulations and Restrictions.

A. In addition to the Chief of Police, the premises proposed to be licensed shall be inspected by the Fire Chief and the Building Official to determine whether or not such business can be safely and lawfully operated thereon. Said premises and all structures thereon shall be so situated and constructed that the business of used metal dealer may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at any time by the proper health, fire, building and police authorities.

B. Each of the premises upon which the business is to be carried on shall be enclosed by a proper fence or other structure not less than seven feet in height, constructed so that no dust or other material may pass through. Said enclosure shall be maintained in good condition at all times. No article shall be piled so as to protrude above said enclosure.

C. No applicant to whom a license has been refused, shall make further application until a period of at least six months shall have elapsed since the last previous rejection unless he can show that the reason for such rejection no longer exists.

D. No license as a used metal dealer shall be granted to any person who has been convicted within two years of the date of application of a violation of this Section; nor to any person who has within five years of the date of application been convicted of a felony.

E. The issuance of a license shall not entitle the holder thereof to buy, sell, keep, store, pile or deal in any old, used, or second-hand material of any kind other than the materials listed in Subdivision 1 of this Section.

F. No licensee shall remove his place of business from the place designated in the license until a written permit has been secured from the City, and the same shall have been endorsed upon the license.

G. No used metal dealer shall carry on the business at or from any other place than the one designated in the license therefor. Nor shall said business be carried on after such license has been revoked or has expired. No used metal dealer shall make any purchase from any person, or receive any articles, between the setting of the sun and seven o'clock in the morning. No used metal dealer shall purchase or acquire from a person under the age of eighteen years any of the materials listed in Subdivision 1 of this Section, without the written consent of a parent or guardian. No items shall be acquired from any intoxicated person.

H. The contents of the premises of every used metal dealer shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every used metal dealer shall be subject to inspection by the City at any time. All articles received shall be retained for ten days before disposal.

I. It is the duty of every licensee hereunder to keep in such form as the Chief of Police may prescribe, a record of articles purchased and sold, including an accurate description of parts and accessories of wrecked motor vehicles, the name and residence of the person from whom each article was purchased and the day and hour of such purchase and the price paid.

J. No person shall knowingly buy, sell, receive, dispose of, conceal or have in his possession any motor vehicle part or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of such vehicle, part or accessory. Every person to whom is offered for sale, storage or wreckage any motor vehicle, part or accessory from which has been removed, defaced, covered, altered or destroyed the manufacturer's serial number or any other number or identification mark shall immediately notify the Chief of Police of such offer.

K. If any goods, articles or things whatsoever shall be advertised in any newspaper printed in the City, as having been lost or stolen, and the same, or any answering the description advertised, or any part or portion thereof shall be or come into possession of any used metal dealer, he shall give information thereof, in writing to the Chief of Police, and state from whom the same was received. Any used metal dealer who shall have received any goods, articles or things lost or stolen, shall exhibit the same on demand to any police officer.

SEC. 6.38. ADULT SERVICE ESTABLISHMENTS

Subd. 1. Findings. The Council has determined that regulation of massage parlors and other adult service establishments is necessary in order to prevent and eliminate abuses against the public health, safety and morals of the residents of the City for the reasons hereafter stated. The Council finds that potential for crimes against residents of the City which is associated with and arises out of activities of adult service establishments, and the need for the residents of the City to be secure and safe in their homes, businesses or accommodations requires such regulation. The presence of adult

service establishments in the City will increase the burden upon law enforcement personnel in order to prevent abuse, fraud, deception and detrimental hygienic conditions if adult service establishments are allowed to develop unregulated. It is necessary to the social and economic well being of our community that a sound and upstanding reputation for safety, health and morals be maintained by both the residents of the City and visitors thereto. The Council takes notice of the problems presented to law enforcement and health department agencies by the use of outcall adult services. Outcall adult services are a health hazard in that they possess a great potential for the spread of communicable diseases which could be detrimental to the health, safety and welfare of the residents of, and visitors to, the City. It is the further intention of the Council that, by this regulation, the possibility of prostitution and related illegal activities be minimized at legitimate adult service establishments.

Subd. 2. Scope and Interpretation. The intent of this Section is to protect the public safety, health and morals. This regulation of adult service establishments will be by controlling locations and licensing such operations. It is the intent of the Council to control to some degree the undesirable and deleterious side effects that accompany the location of adult service establishments in or near residential neighborhoods.

Subd. 3. Definitions. For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this Section.

1. "Massage" - Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with the aid of mechanical electrical apparatus or appliances with or without such supplementary aid as rubbing alcohol, liniment, antiseptics, oil, powder, creams, lotions, ointments or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration of any gratuity therefor.

2. "Adult Service Establishment. - Any establishment having a source of income, derived from the practice of therapeutic services or services reputed to be therapeutic, including, but not limited to, saunas and rap or massage parlors, whether or not such services are offered by a person of the same sex as the customer or client of said establishment, and whether or not the reputed therapeutic service offered is physical or psychological. Further, it is any such business that has a fixed place of doing business where any person engages in or carries on any such activities except establishments practicing medicine, chiropractic or other service professions licensed or regulated by the State of Minnesota.

3. "Permittee" - Any person who in the course of any employment either directly or indirectly engages in the practices of massage or any other physical or psychological therapeutic treatment, or treatment reputed to be therapeutic, except one who practices medicine, chiropractic or other service professions licensed or regulated by the State of Minnesota.

Subd. 4. Location. Adult service establishments shall be located only in those areas within the City which are zoned as follows: Shopping Business District. No adult service establishment shall be located within 500 feet of any residential, religious, charitable or education use or land zoned therefor, nor shall any adult service establishment be located within 500 feet of another adult service establishment or within 500 feet of an adult establishment as defined in this Section. Said distance is to be measured from the edge of the lot on which the adult service establishment premises are located to the nearest edge of the other use or zoning district.

Subd. 5. Hours. The hours for the operation of any adult service establishment shall be limited to 9:00 A.M. to 5:00 P.M. each weekday, and closed on Sunday.

Subd. 6. Minors. No adult service establishment shall employ minors, nor shall it admit any minors onto its premises. No licensee or permittee shall render any service to a minor.

Subd. 7. Non-Discriminatory. Any adult service establishment shall employ and have on duty at all times a substantially equal number of persons of either sex. No discrimination shall be carried on in either the employment or business practices of said adult service establishment on grounds of race, creed, color or sex.

Subd. 8. License Required. It is unlawful for any person to engage in the business or operate an adult service establishment, unless said adult service establishment is currently licensed pursuant to the City Code.

Subd. 9. Application for License. Every application for license shall be filed with the City Clerk on a form provided by the City and shall contain the following information:

- A. The exact nature of the activities to be conducted.
- B. The proposed place of business.
- C. Full description of facilities for the proposed place of business.
- D. The name and address of each applicant.
- E. The applicant's prior addresses for the past five years.
- F. Proof that the applicant is at least 18 years of age.
- G. The applicant's height, weight, color of eyes and hair
- H. Two portrait photographs of the applicant of the dimensions of at least 2" x 2".
- I. The business and occupational employment of the applicant for the three years immediately preceding the date of application.
- J. The massage or similar business license history of the applicant; whether such person, in previously operating in any other city or state has had a business license revoked or suspended, and the reason therefor; the business activity or occupation subsequent to such action of suspension or revocation.
- K. All criminal convictions except traffic parking violations.
- L. Applicant, if a natural person, must furnish a diploma or certificate of graduation from a recognized school, or other institution of learning wherein the method, profession, and work of physical or psychological therapy is taught. Provided, however, that if the applicant himself will not engage in the practice of physical or psychological therapy, he need not possess such diploma or certificate. Nothing herein contained shall be to deny the City the right to request fingerprints and additional photographs of the applicant. Nor shall anything contained herein be construed to deny the right of the City to confirm the height and weight of the applicant.
- M. If the applicant is a corporation, the application shall contain the name of the corporation exactly as shown on its Articles of Incorporation; the names and residences of each of the officers, directors and each shareholder holding more than 5% of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and address and residence of each of the partners including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate application shall apply.

N. If the applicant is a natural person, he must provide the names, current addresses and sworn affidavits of at least five bona fide permanent residents of the State of Minnesota that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City, then the County of St. Louis and then the State.

O. The location of the business premises.

P. Such other information as the Council may require.

Subd. 10. Falsification of Information. Any falsification of information on the license is unlawful and shall result in a denial of the license.

Subd. 11. Subsequent Changes in License Application Information. It shall be the continuing duty of each licensee to properly notify the City Clerk of any change in the information or facts required under this Section to be furnished on the application for license. This duty shall continue through the period of such license. Failure to comply with this Subdivision shall constitute cause for revocation or suspension of such license.

Subd. 12. Permit Required. Any person who desires to engage in the practice of physical or psychological therapy, unless otherwise exempted, shall first obtain a permit from the City.

Subd. 13. Application for Permit. Every application for permit shall be filed with the City Clerk. Each application shall be made on a form provided by the City and shall contain the following information:

A. The name and address, and all names, nicknames and aliases by which the applicant has been known.

B. The applicant's social security number, driver's license number, if any, and date of birth.

C. Applicant's weight, height, color of hair and color of eyes.

D. Written evidence that the applicant is at least 18 years of age.

E. The business, occupation or employment of the applicant for the past three years immediately preceding the date of application.

F. Whether the applicant has ever been convicted of any crime other than traffic parking violations. If the applicant has been so convicted, a statement must be made giving the place and Court in which such conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as a result of such conviction.

G. The name and address of the recognized school attended, the dates attended and a copy of the diploma, or certificate of graduation awarded to the applicant showing the applicant has completed not less than 500 hours of instruction. No more than 250 of these hours can be in that form of instruction commonly referred to as "On the Job Training".

H. The City shall have the right to take fingerprints and a photograph of the applicant and retains the right to confirm the information submitted.

I. The names, current addresses and written statements of at least five bona fide permanent residents of the State of Minnesota other than relatives that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City, then St. Louis County, and then the State.

J. In addition to the above information, the applicant shall furnish written evidence that he or she has been examined by a physician- and has been certified as free from communicable diseases. Such evidence shall be furnished to the City Clerk on a semi-annual basis to correspond with the renewal of the said permit. The permittee shall notify the City Clerk of each change in any of the dates required to be furnished by this Subdivision within ten days after such change occurs.

Subd. 14. Falsification of Information on Permit. Any falsification of information on the permit application is unlawful and shall result in the denial of the permit.

Subd. 15. Subsequent Changes in Permit Application Information. It shall be the continuing duty of each permittee to properly notify the City Clerk of any change in the information or facts required to be furnished on the application for permit. This duty shall continue throughout the permit period of such permit, and failure to comply with this Subdivision shall constitute cause for revocation or suspension of such permit.

Subd. 16. Execution of Application. All applications for licenses and permits shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by the officer thereof; if by a partnership, by one of the partners; and if by an incorporated association, by the manager or managing director thereof.

Subd. 17. Persons Ineligible for a License or Permit. No license or permit under this Section shall be issued to an applicant who:

- A. Is under 18 years of age.
- B. Is an alien.
- C. Has been convicted of a felony or other crime or violation involving moral turpitude.

Subd. 18. Granting of License or Permit; Renewals. The Chief of Police and other consultants who have investigated the initial application shall make a written recommendation to the Council as to the issuance or non-issuance of the license or permit. The Council may order and conduct such additional investigation as it deems necessary. Upon receipt of the written report and recommendation by the Chief of Police, and within twenty days thereafter, the Council shall instruct the City Clerk to cause to be published in the official newspaper notice of a hearing to be held by the Council. This notice shall be published at least ten days in advance of the hearing. The notice shall set forth the day, time and place where the hearing will be held. The notice shall also include the name of the applicant, the premises where the business is to be conducted, the nature of the business, and such other information as the Council may direct. An initial license shall not be approved by the Council prior to the next regular meeting of the Council following such public hearing. Not less than ten days nor more than thirty days after the date for submitting a renewal application, the Council shall hold a public hearing regarding the grantee of a renewal. Notice of the time and place of such hearing

and the fact that a renewal application shall be considered shall be published in the official newspaper ten days in advance of the hearing. The opportunity shall be given to any person to be heard for or against the granting of a renewal license or permit by the Council.

Subd. 19. Revocation of License or Permit.

A. Mandatory. Any conviction of a licensee, permittee, managing officer or controlling stockholder of licensee of a crime or violation involving moral turpitude shall result in the revocation of any license or permit issued hereunder.

B. Discretionary. The Council may suspend or revoke a license or permit issued under this Section upon a finding of violation of any of the conditions or provisions of this Section or upon violation of any other provision of the City Code or State statute regarding adult service establishments. The following shall be considered grounds for revocation or suspension:

1. If the licensee fails to comply with the City Code or Statutes pertaining in any fashion to adult service establishments.

2. If the licensee, or any of the licensee's employees, are found to be in possession or control of any alcoholic beverages, or narcotic drugs or controlled substances on the premises of the adult service establishments, possession of which is illegal as defined by Statutes or the City Code.

3. If any employees of an adult service establishment are convicted of any City Code provision or State statute violation arising within the adult service establishment.

Subd. 20. Conditions of License or Permit. No licensee or permittee shall conduct or solicit business within the limits of the City while under suspension or following revocation of license or permit by the Council.

Subd. 21. Identification Name Plate. The licensee of any adult service establishment shall provide permittees employed by him with an identification name plate. The name plate shall contain a photograph of the permittee with the full name and permit number assigned to said permittee which must be worn on the front of the outermost garment at all times during the hours of operation of any adult service establishment.

Subd. 22. Licensee's Responsibility for Employment of Permittees. It shall be the responsibility of the licensee and any person or employee designated by said licensee to insure that each person employee as a permittee shall at all times have a valid permit pursuant to this Section.

Subd. 23. Register of Employees. The licensee of an adult service establishment shall maintain a register containing the names and current addresses of all persons employed at the time as permittees with their permit numbers. Such register shall be available at the adult service establishment to the representatives of the City during regular business hours.

Subd. 24. Inspection. The City shall from time to time, but at least twice a year, make an inspection of each adult service establishment in the City for the purpose of determining compliance with the provisions of this Section.

Subd. 25. Construction, Maintenance and Operating Requirements. No license to conduct an adult service establishment shall be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements.

A. Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed material and shall be installed in accordance with the Building Code. Plumbing fixtures shall be installed in accordance with the Plumbing Code.

1. Steam rooms and shower compartments shall have waterproofed floors, walls and ceilings approved by the City.

2. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)

3. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

B. Toilet facilities must be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each twenty or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for toilets after one toilet has been provided. All toilet rooms shall be equipped with self-closing doors opening in the direction of ingress to the toilet room. Toilets shall be designated as to the sex accommodated therein.

C. Lavatories or wash basins shall be provided with both hot and cold running water and installed in either the toilet room or vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels. All electrical equipment shall be installed in accordance with the requirements of the Building Code.

D. Every portion of an adult service establishment including appliances, apparatus and personnel, shall be kept in a clean and sanitary condition.

E. All employees shall wear clean outer garments whose use is restricted to the adult service establishment. Provisions of a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and be self-closing.

F. All adult service establishments shall be provided with clean, laundered sheets and towels in a sufficient quantity and shall be laundered after each use thereof and stored in approved sanitary manner. No towels or sheets shall be laundered or dried in any adult service establishment, unless such establishment is provided with approved laundry facilities for such laundry and drying. Approved receptacles shall be provided for the storage of soiled linens and paper towels.

G. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs shall be thoroughly cleaned and disinfected after each use.

H. No adult service establishment licensed under the provisions of this Section shall place, publish or distribute or cause to be placed, published or distributed, any advertisement picture or statement which is known, or through the exercise of reasonable care should be known, to be false, deceptive or misleading in order to induce any person to purchase or utilize any services rendered by said adult service establishment.

SEC. 6.39. PAWNBROKERS

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

Pawnbroker. 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. This definition shall exclude bondsmen and brokers.

Reportable transaction. 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. 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.

License fees.

(1) The annual license fees for licenses issued under this chapter shall be One Dollar and No/100ths Dollars (\$1.00) per transaction payable to the City of Virginia to be forwarded to the State of Minnesota for the use of their program. No other fees shall be charged for one (1) year after which the City Council of the City of Virginia shall review the ordinance and make a determination as to the appropriate payment.

(2) 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 thirty (30) days before any adjustment is implemented.

(3) Billable transaction fees shall be billed monthly and are due and payable within thirty (30) days. Failure to do so is a violation of this chapter.

Application required. (The requirements detailed here are intended to provide licensing authorities adequate information to make a good decision re: the applicant(s).)

(1) If the applicant is a natural person:

a. The name, place and date of birth, street resident address, and phone number of applicant.

b. Whether the applicant is a citizen of the United States or resident alien.

c. 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.

d. 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.

e. The street address at which the applicant has lived during the preceding five (5) years.

f. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.

g. 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.

h. The physical description of the applicant.

i. 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 h. of subdivision (1) of this section.

(2) If the applicant is a partnership:

a. 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.

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

c. 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, a certified copy of such certificate must be attached to the application.

d. 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 j. of subdivision (1) of this section.

(3) If the applicant is a corporation or other organization:

a. The name of the corporation or business firm, and if incorporated, the state of incorporation.

b. 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, must be attached.

c. 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 h. of subdivision (1) of this section.

d. A list of all persons who control or own an interest in excess of five (5) percent in such organization or business from or who are officers of the corporation or business firm and all information concerning said persons required in subdivision (1) above. This subdivision (d), 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.

(4) For all applicants:

a. Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit.

b. 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.

- c. The location of the business premises.
- d. If the applicant does not own the business premises, a true and complete copy of the executed lease.
- e. The legal description of the premises to be licensed.
- f. 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.
- g. 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.
- h. Such other information as the City Council or issuing authority may require.

(5) New 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 fourteen (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.

(6) Application execution. All applications for a license under this chapter must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to 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.

(7) Investigation. The Police Department must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the Police Department such evidence as the inspector may reasonably require in support of the statements set forth in the application.

(8) Public hearing. The council member may request a public hearing at council, or in the evening hours at a location in the approximate vicinity of the proposed location.

(9) 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, Subd. 2, 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, Subd. 3; or
- c. Is not of good moral character or repute.

Bond required. Before a license will be issued, every applicant must submit a One Thousand and No/100ths Dollar (\$1,000.00) bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws 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 thirty (30) days written notice to the City, which shall be served upon licensing authority.

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.

- (1) 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.
- (2) The purchase price, amount of money loaned upon, or pledged therefor.
- (3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- (4) 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.
- (5) 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.
- (6) The identification number and state of issue from any of the following forms of identification of the seller:
 - a. Current valid Minnesota driver's license.
 - b. Current valid Minnesota identification card.

c. Current valid photo identification card issued by another state, province of Canada or foreign country.

(7) The signature of the person identified in the transaction.

(8) Effective sixty (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:

a. Each customer involved in a billable transaction.

b. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

If a photograph is taken, it must be at least two (2) inches in length by two (2) 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 Public Safety Director, or the Public Safety Director'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 he or she is 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 paying 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 he or she is 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 (3) months.

(9) Digitized photographs. Effective sixty (60) days from the date of notification by the Police Department licensees must fulfill the color photograph requirements in section (8) (Records Required) 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 the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in subdivision (8).

(10) 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.

(11) 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 (3) years from the date of transaction. Entries of required digital images shall be retained a minimum of ninety (90) days.

Daily reports to police. (a) Effective no later than sixty (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:

(1) 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.

(b) Billable transaction fees. Licensees will be charged for each billable transaction reported to the Police Department.

(1) 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;

(2) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in (Daily Reports to Police) (b)(1), and resubmit all such transactions via modem when the error is corrected.

(3) If a licensee is unable to capture, digitize or transmit the photographs required in (Records Required) (9), 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.

(4) 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.

(5) (Daily Reports to Police) (b) (1) through (3) notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Receipt required. Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include at least the following information:

(1) The name, address and telephone number of the licensed business.

(2) The date and time the item was received by the licensee.

(3) Whether the item was pawned or sold, or the nature of the transaction.

(4) 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.

(5) The signature or unique identifier of the licensee or employee that conducted the transaction.

(6) The amount advanced or paid.

(7) The monthly and annual interest rates, including all pawn fees and charges.

(8) 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.

(9) The full name, current residence address, current residence telephone number and date of birth of the pledger or seller.

(10) The identification number and state of issue from any of the following forms of identification of the seller:

a. Current valid Minnesota driver's license.

b. Current valid Minnesota identification card.

c. Current valid photo driver's license or identification card issued by another state or province of Canada.

(11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.

(12) The signature of the pledger or seller.

(13) All printed statements as required by State Statute 325J.04, subdivision 2, or any other applicable statutes.

Redemption period. (State Statute 325J allows communities to set minimum redemption period at no less than sixty (60) days). Ninety (90) days is more common)

Any person pledging, pawning or depositing an item for security must have a minimum of ninety (90) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the ninety (90) day holding period, items may not be removed from the licensed location except as provided in (Business at only one place). Licensees are prohibited from redeeming any item to anyone other than the period 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 Public Safety Director, or the Public Safety Director'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 (Records required) (10).

Victims to report their loss and law enforcement to make comparisons. Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for seven (7) days from the date of the transaction. An individual may redeem an item seventy-two (72) hours after the item was received on deposit, excluding Sundays and legal holidays.

Police order to hold property. (a) 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 investigate hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for fifteen (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 [section] (Police order to hold property) (b), whichever comes first.

(b) Order to hold. Whenever the Public Safety Director, or the Public Safety Director'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 Public Safety Director or the Public Safety Director's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the Public Safety Director or the Public Safety Director's designee determines the hold is still necessary and notifies the licensee in writing.

(c) Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the Public Safety Director or the Public Safety Director's designee, may:

1. Physically confiscate and remove it from the shop, pursuant to a written order from the Public Safety Director or the Public Safety Director's designee, or

2. Place the item on hold or extend the hold as provided in (Police order to hold property) (b), 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 Public Safety Director or the Public Safety Director's designee shall so notify the licensee.

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 (Business at only one place), during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.

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 reused.

Prohibited acts.

(a) No person under the age of eighteen (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 eighteen (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 providence 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, lease 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.

Denial, suspension or revocation. Any license under this chapter may be denied, suspended or revoked for one or more of the following reasons:

(1) The proposed use does not comply with any applicable zoning code.

(2) The proposed use does not comply with any health, building, building maintenance or other provision of this Code of Ordinances or state law.

(3) The applicant or licensee has failed to comply with one or more provisions of this chapter.

(4) 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.

(5) Fraud, misrepresentation or bribery in securing or renewing a license.

(6) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

(7) Violation within the preceding five (5) years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(8) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

Business at only one place. A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the Public Safety Director, or the Public Safety Director's designee, may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with (Inspection of items). All provisions of this chapter regarding recordkeeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the City Code.

Separability. 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 affect the validity of the ordinance as a whole or any part other than the part so declared invalid."

(Adopted 5/23/06; effective 9/1/06)

SEC. 6.40. SECONDHAND GOODS DEALERS

Subd. 1. Definition. "Secondhand Goods Dealer" means a person engaging in the business of buying or selling or both of secondhand goods of any kind excepting goods and merchandise defined as junk or used metal under the City Code, used, wrecked or dismantled motor vehicles or motor vehicles intended to be wrecked or dismantled and goods and merchandise taken as part or full payment for new goods and merchandise.

Subd. 2. License Required. It is unlawful for any person to engage in the business of, or operate as, a secondhand goods dealer without a license therefor from the City.

Subd. 3. Bond. An applicant for a secondhand goods dealer's license shall file a bond in the penal sum of \$1,000.00. All such bonds shall be conditioned that the principal named therein will observe all laws in relation to dealers in secondhand goods and conduct his business in conformity thereto, and that he will account for and deliver to any person legally entitled thereto, any goods, wares or merchandise, article or thing, which may have come into his hands through his business as such dealer in secondhand goods, or in lieu thereof will pay in money to such person.

Subd. 4. Records Required. Every person who shall be engaged in the business of dealer in secondhand goods shall keep a book in which shall be clearly written in ink, at the time of each purchase, an accurate account or description, in the English language, of the goods, article or other thing purchased, the amount of money paid therefor, the time of the receipt of the same, the name, residence and description of the person selling the same. Such book, as well as the article purchased, shall at all reasonable times be open to the inspection of the Mayor or any member of the police force.

Subd. 5. Receipts Required. Every such dealer in secondhand goods purchasing or receiving any article or personal property shall give to the person selling such article or personal property a plain written or printed ticket or receipt for the article or personal property so sold, showing the terms of such sale and a copy of the entries in his book above required relating to such sale.

Subd. 6. Reports to Police. Every dealer in secondhand goods, upon being served with a written notice to do so by a member of the Police Department, shall make out and deliver to the Chief of Police, upon blank forms to be furnished by the Police Department! by the end of the second business day following such service exclusive of the day of such service, a legible correct copy from the book, of all personal property or other valuable things received or purchased during such time period specified in the notice together with the date when purchased and the name, address and description of the person or persons from whom the same were purchased. Provided, that no person shall be required to furnish such description of any property purchased from merchants, manufacturers or wholesale dealers having an established place of business, or of goods purchased at open sale from any bankrupt stock. But such property and goods must be accompanied by a bill of sale or other evidence of open or legitimate purchase, which must be shown to the Mayor or other member of the police force when demanded.

Subd. 7. Required Holding Period. No personal property purchased by any dealer in secondhand goods shall be sold or disposed of in any way within the period of ten days next after the delivery to the Chief of Police of the copy and statement relating thereto.

Subd. 8. Police Order to Hold Property. Whenever the Chief of Police, or any member of the police force designed by the Chief of Police, shall notify any such dealer or dealers not to sell any property so purchased by them, such property shall not be sold until such time as may be determined by the Chief of Police or member of the police force designated by the Chief of Police so requiring them to be held.

Subd. 9. Hours. From 9:00 P.M. Saturday to 7:00 A.M. Monday, no property shall be received as a purchase by any dealer; nor shall any property except personal wearing apparel be sold during said hours by any dealer, nor on any other day before 7:00 A.M., nor on any day after 9:00 P.M. Further, no dealer in secondhand goods shall be open for business on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

Subd. 10. Minors; Prohibitions. No person under the age of 18 years, except with the written consent of the parent or guardian of the minor to each particular transaction, shall sell any personal property or other valuable thing to any person licensed to do business under this Section. No person under the age of 18 years shall represent to any person licensed under the provisions of this Section, at the time of his selling of any personal property, that he is 18 years of age or over.

SEC. 6.41. TEAR GAS AND ELECTRONIC INCAPACITATION DEVICE DEALERS

Subd. 1. Definitions. For the purposes of this Section:

A. "Authorized tear gas compound" means a lachrymator or any substance composed of a mixture of a lachrymator, including chloroacetophenone, alphachloroacetophenone, phenylchloromethylketone, orthochlorobenzalmalononitrile or oleoresin capsicum, commonly known as tear gas.

B. "Electronic incapacitation devices" means a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. "Electronic incapacitation device" does not include cattle prods, electric fences, or other electric devices which are used in agricultural, animal husbandry, or food production activities.

Subd. 2. License Required. It is unlawful for any person to engage in the business of, or operate as, a tear gas and electronic incapacitation device dealer without a license therefor from the City.

Subd. 3. Restriction on Issuance. No license shall be issued under this Section for any premises which an on-sale license for the sale of beer, wine or liquor as defined in City Code, Chapter 5, has been issued.

Subd. 4. Granting of Licenses.

A. Investigation and Issuance. The Council with the assistance of the Chief of Police shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall grant or refuse the application.

B. Person and Premises Licensed; Transfer. Each license shall be issued to the applicant and for the premises described in the application. No license shall be transferred to another person and a license shall not be transferred to another place without approval of the Council.

Subd. 5. Conditions of License.

A. In General. Every license is subject to the conditions stated in the following Subparagraphs and all other relevant provisions of this Section and any other provisions of the City Code or State law.

B. Licensee's Responsibility. Every licensee is responsible for the conduct of his business in accordance with this Section and applicable State laws. The act of any employee on the licensed premises in dealing with tear gas, tear gas compounds, authorized tear gas compounds, and electronic incapacitation devices, is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this Section and the law equally with the employee.

C. Record of Sales. Each licensee shall maintain in his place of business a record of each sale of authorized tear gas compounds and electronic incapacitation devices made under his license. The record shall show for each sale the name and address of the purchaser, the date of purchase, the number of each authorized tear gas compounds and electronic incapacitation devices sold to the purchaser and the identification of the item, and information showing that, on the basis of answers made by the purchaser to written questions, the purchaser is eligible to make the purchase. A sample form giving all such information shall be prepared by the City Clerk after consultation with the Chief of Police, and a copy shall be made available to each licensee, but the licensee may prepare his own form so long as the required information appears thereon. Such record shall be confidential but shall be available for inspection at any time during business hours by any police officer or other properly designated officer or employee of the City.

SEC. 6.42. LODGING TAX

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Lodging" means the furnishing for a consideration of lodging by a hotel, motel or rooming house except where such lodging shall be for a continuous period of thirty (30) days or more to the same lodger(s). The furnishing of rooms by religious, educational or non-profit organizations shall not constitute "lodging" for purposes of this Section.

2. "Operator" means a person who provides a lodging to any person.

3. "Rent" means the total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

4. "Lodger" means the person obtaining lodging from an operator.

Subd. 2. Imposition of Tax. There is hereby imposed a tax of three percent (3%) on the rent charged by an operator for providing lodging to any person after January 15, 1988. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the City and shall be extinguished only by payment to the City. In no case shall the tax imposed by this Section upon an operator exceed the amount of tax which the operator is authorized and required by this Section to collect from a lodger.

Subd. 3. Collections. Each operator shall collect the tax imposed by this Section at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

Subd. 4. Exemptions. An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the City to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected and such a claim shall be made in writing and under penalty of perjury on forms provided by the City Clerk. All such claims shall be forwarded to the City Clerk when the returns and collections are submitted as required by this Section.

Subd. 5. Advertising No Tax. It is unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than one cent shall be considered an additional cent.

Subd. 6. Payment and Returns.

A. The taxes imposed by this Section shall be paid by the operator to the City Clerk monthly not later than 25 days after the end of the month in which the taxes were collected. At the time of payment the operator shall submit a return upon such forms and containing such information as the City Clerk may require. The return shall contain the following minimum information:

1. The total amount of rent collected for lodging during the period covered by the return.

2. The amount of tax required to be collected and due for the period.

3. The signature of the person filing the return or that of his agent duly authorized in writing.
4. The period covered by the return.
5. The amount of uncollectable rental charges subject to the lodging tax.

B. The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this Section previously paid as a result of any transaction the consideration for which became uncollectable during such reporting period, but only in proportion to the portion of such consideration which became uncollectable.

Subd. 7. Examination of Return, Adjustments, Notices and Demands. The City Clerk shall, after return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City Clerk ten (10) days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the City Clerk ten (10) days after determination of such refund.

Subd. 8. Refunds. Any person may apply to the City Clerk for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one (1) year after such tax was paid, or within one (1) year from the filing of the return, whichever period is the longer. The City Clerk shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the City Clerk shall credit the amount of the allowance against any taxes due under this Section from the claimant and the balance of said allowance, if any, shall be paid by the City Clerk to the claimant.

Subd. 9. Failure to File a Return.

A. If any operator required by this Section to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within five (5) days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the City Clerk shall make a return or corrected return, for such person from such knowledge and information as the City Clerk can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid upon within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City Clerk shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

B. If any portion of a tax imposed by this Section, including penalties thereon, is not paid within 30 days after it is required to be paid, the City Attorney may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the costs and disbursements of any action.

C. Upon a showing of good cause, the City Clerk may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this Section, provided that interest during such period of extension shall be added to the taxes due at the rate of 10 percent per annum.

Subd. 10. Penalties.

A. If any tax imposed by this Section is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to 10 percent of the amount remaining unpaid.

B. In case of any failure to make and file a return within the time prescribed by this Section, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax in addition to the 10 percent specific penalty provided in Subparagraph A above, 10 percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. If the penalty as computed does not exceed \$10.00, a minimum penalty of \$10.00 shall be assessed. The amount so added to any tax shall be collected at the same time and the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

C. If any person willfully fails to file any return or make any payment required by this Section, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such a tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50 percent of any tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this Subparagraph shall be collected as part of the tax, and shall be in addition to any other penalties provided by this Section.

D. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

E. The amount of tax not timely paid, together with any penalty provided by this Section, shall bear interest at the maximum rate per annum as prescribed by Minnesota Statutes, Section 270.75, from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

Subd. 11. Administrator of Tax. The City Clerk shall administer and enforce the assessment and collection of the taxes imposed by this Section. The City Clerk shall cause to be prepared blank forms for the returns and other documents required by this Section and shall distribute the same throughout the City and furnish them on application, but failure to receive or secure them shall not relieve any person from any obligation required of him under this Section.

Subd. 12. Examine Records. The City Clerk and those persons acting on behalf of the City Clerk authorized in writing by the City Clerk or the City may examine the books, papers and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this Section. Every such operator is directed and required to give to the said person authorized to examine the books, papers and records, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

Subd. 13. Violations. It is unlawful for any person to willfully fail to make a return required by this Section; or to fail to pay the tax after written demand for payment; or to fail to remit the taxes collected or any penalty or interest imposed by this Section after written demand for such payment; or to refuse to permit the City Clerk or any duly authorized agents or employees to examine the books, records and papers under his or her control; or to willfully make any incomplete, false or fraudulent return.

Subd. 14. Use of Proceeds. Five percent (5%) of the proceeds obtained from the collection of taxes pursuant to this Section shall be paid to the City Clerk for costs of collection. Ninety-five percent (95%) of the proceeds obtained from the collection of taxes pursuant to this Section shall be used in accordance with Minnesota Statutes, Section 477A.018 as the same may be amended from time to time to provide funding to Iron Trail Travel & Convention Bureau for the purpose of marketing and promoting the City as a tourist or convention center.

Subd. 15. Appeals.

A. Any operator aggrieved by any notice, order or determination made by the City Clerk under this Section may file a petition for review of such notice, order or determination detailing the operator's reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice or determination.

B. The petition shall be filed with the City Clerk within ten (10) days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review.

C. Upon receipt of the petition the City Clerk shall set a date and time for a meeting with the petitioner and shall give the petitioner at least five (5) days prior written notice of the date, time and place of the meeting.

D. At the meeting, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. If the meeting does not result in the matter being resolved to the satisfaction of the petitioner, the petitioner may appeal to the Council.

E. A petitioner seeking to appeal a decision to the Council must file a written notice of appeal with the Council in care of the City Clerk, within ten (10) days after the City Clerk's decision following the meeting described in Subparagraph D above, has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as is practical. At least five (5) days prior to the hearing before the Council, the City Clerk shall prepare and serve on the petitioner a Memorandum of Proposed Findings of Fact and Conclusions of Law. A copy of the Memorandum shall be presented to the Council at the time of the appeal hearing. The Council shall

then review the proposed Findings of Fact and Conclusions to determine whether they are correct. Upon a determination by the Council that Findings and Conclusions are incorrect, the Council may modify, reverse or affirm the decision of the City Clerk based upon an application of the Subparagraphs of this Subdivision and the evidence presented.

Source: City Code

Effective Date: 3-1-88

SEC. 6.43. TAXI LICENSE RESTRICTIONS AND REGULATIONS.

Subd. 1. No person, co-partnership or corporation shall hereafter use or operate or cause to be used or operated any motor vehicle carrying passengers for hire over or upon any public highway or street in the City of Virginia, except trunk highways under the control of the State of Minnesota, unless such person, co-partnership or corporation shall first pay the license fee herein prescribed and secure a license from the City of Virginia so to do in accordance with the provisions of this ordinance.

Subd. 2. Application for the operation of a motor vehicle for hire shall be made in writing and filed with the City Clerk of the City and shall state the kind of vehicle to be used, the vehicle identification number and the State license number, the seating capacity of such vehicle, the name of the owner or licensee and the nature of business proposed to be done. Each application shall be duly verified and shall be accompanied by a certificate signed by at least two (2) resident taxpayers of the City of Virginia, stating that they are acquainted with said applicant and that he is a fit and proper person to engage in such business.

Subd. 3. No such license shall be issued until the applicant shall obtain a policy of insurance through an insurance company authorized to do business under the laws of the State of Minnesota, insuring said person, co-partnership or corporation operating such vehicles against loss by reason of any damages that may result to any person or persons from the operation of such motor vehicle. Such policy of insurance shall insure such operator in at least the minimum amount required by Minnesota State Statutes against claims for damage by reason of injuries to any one person injured or killed through the operation of such motor vehicle. Such policy of insurance shall guarantee payment of any final judgment rendered against the owner or licensee of such motor vehicle within the limits hereinbefore provided, because of injury or damage resulting to any person or persons from the negligent operation of said motor vehicle. It shall be in a form satisfactory to the City Council of the City which may require the licensee to replace said policy of insurance if the Council shall at any time deem it or the insurer thereon unsatisfactory or insufficient. The default or refusal of said licensee to comply with any such order of the Council shall be ground for revocation of the license of said licensee. As part of the application process, all parties seeking taxi licensure in the City of Virginia must pass MNDOT's annual vehicle inspection and must pass a criminal background check.

(Amended 9/25/02)

Subd. 4. The insurance policy herein provided or a duly authenticated copy thereof shall be filed with the City Clerk; and shall contain a provision that it cannot be cancelled by the insurer without notice to the City of Virginia.

Subd. 5. The annual license fee for each vehicle so proposed to be operated is hereby fixed at \$50.00 for up to three (3) vehicles with an additional fee of \$25.00 per vehicle for any vehicles over three (3), to be paid by the applicant to the City Clerk before issuance of any license. Such license shall authorize such person to operate such motor vehicle for hire for the period from January 1 to December 31 of the year in which issued.

Subd. 6. In any case in which any one person, co-partnership or corporation shall apply for license for more than one such motor vehicle, such person, co-partnership or corporation shall not be required to submit separate policies of insurance for each such motor vehicle if it shall file with the City a blanket insurance policy covering all such vehicles which gives to the said licensee and to any person or persons injured because of the negligent operation of any such motor vehicle at least the same amount of protection which is required by the provisions of this ordinance.

Subd. 7. Upon compliance with the provisions hereof the City Council, if it deems the applicant a fit person to engage in such business, may grant such license. Upon such license being granted by the Council, the Clerk shall issue the same and shall furnish to such licensee a metal plate for each such vehicle so licensed containing the number of the license and the period for which such vehicle is so licensed. Such metal plate shall at all times be displayed in a conspicuous place upon such motor vehicle.

Subd. 8. This ordinance shall not apply to the Dial-A-Ride service.

Subd. 9. Any license granted hereunder may be revoked by the Council at any time.

Subd. 10. Any person who shall operate any motor vehicle for hire upon any of the streets of the City of Virginia, except as herein provided, without first obtaining the license herein required or without displaying the license plate as herein provided or who shall violate any of the other provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$700.00 or by imprisonment for not to exceed ninety (90) days.

Subd. 11. This ordinance shall be in force and effect from and after January 1, 2000. All licenses issued under any other ordinance of the City to any person to operate any motor vehicle for hire within the City shall be and hereby are revoked on that date."

(Adopted 12/14/99)

SEC. 6.44. Massage Therapy Establishments

Subd. 1. Definitions.

A. As used in this section, the term “massage” means scientific manipulation of the soft tissue of the body of one person with the hands of another person for the purpose of relaxation or therapy. The practice of massage is declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, nursing, physical therapy, or podiatry by persons duly licensed or registered in this state to practice such, and does not include athletic directors and trainers employed by a school or bona fide athletic team, beauty culturists or barbers.

B. The term “massage establishment” means any business establishment having a fixed place of business where any person engages in, or permits another person to be engaged in, the massage of clients, including health clubs, beauty salons, saunas and steam baths that offer massage therapy, but excluding residential premises where massage therapy is practiced as a home occupation.

C. The term “employee” means a person who is paid an hourly wage by a licensee for performing work in licensee’s massage establishment.

Subd. 2. License required. No person shall engage in the business of operating a massage establishment either exclusively or in connection with any other business enterprise without first obtaining a license for each massage establishment.

Subd. 3. Application for license. Application for a massage establishment license shall be made to the City Clerk on forms supplied by said clerk. It shall contain the following information:

- (a) A description of services to be provided;
- (b) A description and location of the premises to be licensed;
- (c) The full names and addresses of the property owner, business owner, lessee and manager, operator and the date of birth of each;
- (d) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment;
- (e) If applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the massage establishment;
- (f) Whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense and, if so, a description of the offense as to time, place, date and disposition;

- (g) Whether any of the aforementioned individuals has ever held a license to run a massage establishment or similar business in another jurisdiction and, if so, whether such license was ever revoked, suspended or denied;
- (h) The method of payment under which massage therapists are paid and the economic basis upon which massage therapists are paid.

Subd. 4. License fee and license year; separate license required for each place of business; display of license. The annual license fee shall be set at Fifty and No/100ths Dollars (\$50.00). A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place on the licensed premises at all times. A license, unless revoked, is for the one (1) year, or part thereof, for which it has been issued.

Subd. 5. Issuance.

A. No license under this section shall be issued unless it is approved by the City Clerk upon advice from the Police Department and unless the establishment has passed fire and health inspections. The City Clerk shall not approve any license if he has reasonable grounds to believe:

- (a) That the granting of said license would result in violations of the law;
- (b) That the license application contains false or misleading statements;
- (c) That other good cause exists for denying the license.

B. If the Chief of Police or City Clerk finds that they do not have adequate information to evaluate a license application, they may hold the application for up to thirty (30) days for further investigation. During this period they may direct the applicant, manager or agent to appear at any reasonable time and place to give, under oath, information concerning the application. No license shall be granted to any applicant who refuses to appear and cooperate with the investigation.

Subd. 6. Massage therapists; employment relationships; licenses required.

A. No massage establishment licensee shall permit any person to perform a massage in the licensee's massage establishment unless such person is an employee of said licensee and unless such person is licensed as a massage therapist as provided herein. No person shall massage another for compensation unless such person has obtained a massage therapist license as provided herein and unless such person is the licensee of said massage establishment or an employee of the licensee of said massage establishment or is lawfully engaging in a massage practice as a home occupation.

B. Massage therapist licenses shall be issued by the City Clerk after approval by the Chief of Police. Applicant must be eighteen (18) years of age or over, of good moral character and eligible for a license under the terms of Minnesota statutes Chapter 364 and the provisions of this ordinance. Applicant must also have successfully completed a course of study in massage of not less than 500 hours from a recognized school where the theory, method, profession or work of massage is taught; except that any person licensed as a massage therapist before July 15, 2001, may continue to receive a license notwithstanding the fact such therapist has less than 500 hours of training. Applicant shall submit a diploma, certificate or other written proof of educational attainment with the application, including the name and address of the school.

C. An application for such license shall be filed with the City Clerk, which application shall state the name, address, date of birth, criminal record and other pertinent information as required by the Chief of Police. Upon receipt of the application, the Chief of Police shall cause all necessary investigations to be made so that he may approve or disapprove of the license.

D. The fee for such license shall be set in accordance with Subd. 4 above. The license year shall be from January 1 to December 31 and shall not be prorated.

Subd. 7. Prohibited acts.

A. No massage establishment shall:

- (a) Remain open between 1:00 a.m. and 6:00 a.m. on any day;
- (b) Hire as a massage therapist any person who is not licensed pursuant to this Ordinance.
- (c) Require or permit any massage therapist to pay any fee, rent, or sum of money for the right to perform massages in the massage establishment or require massage therapists to pay any other fee as a term or condition of employment;
- (d) Allow any alcoholic beverages to be kept, sold, dispensed or consumed on the premises;
- (e) Permit massages to be given in any cubicle, room or booth with a locking door;

B. No massage therapist shall:

- (f) Massage or offer to massage the genital area of any customer;
- (g) Perform or offer to perform any act prohibited by the Virginia City Code.

Subd. 8. Massage therapists not to live on licensed premises.

A. No massage therapist shall maintain his or her living quarters on the licensed premises of any massage establishment.

B. No license shall be granted to any massage therapist who does not maintain separate living quarters from the rooms where massages are performed, unless the massage therapist is lawfully engaging in a massage practice as a home occupation.

Subd. 9. License to maintain order on premises. The licensee, or, in the case of a corporate licensee, the manager of any massage establishment, shall personally supervise the business operations and shall have a non-delegable duty to insure that no acts of prostitution, sexual misconduct or other violations of this section occur on the licensed premises. To this end, every act done in

violation of this section on the licensed premises by an employee, manager or agent of the licensee, shall also be deemed to be an act of the licensee.

Subd. 10. Suspension and revocation of licenses. The City Clerk may revoke or suspend any license issued pursuant to this section if, after giving the licensee an opportunity to be heard on the matter, he/she finds:

A. The licensee has violated a provision of this section or any other law relating to the conduct of its operation including, but not limited to, state, federal or local laws on morals, prostitution, health, fire safety or liquor.

B. The licensee secured the license through misrepresentation or fraud or misstated any material fact in the application.

C. Failure of the licensee to cooperate with police, fire or health officers in any investigation relating to their operations or failure to admit police officers into the establishment at any time when people are present in the establishment.

D. The establishment is operated in such a way as to endanger public health or safety.

E. The establishment is operated in such a way as to constitute a public nuisance.

Subd. 11. Appeals. Any person aggrieved by a licensing decision of the City Clerk under this section may appeal such decision to the City Council by filing written notice of appeal with the City Clerk within fifteen (15) days after such decision is rendered.

(Adopted 2/22/05)

(Sections 6.45 through 6.98, inclusive, reserved for future expansion.)

SEC. 6.99. VIOLATION A MISDEMEANOR Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 3-1-88